

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE UPPER MILFORD TOWNSHIP  
BOARD OF SUPERVISORS TO ADOPT AN OFFICIAL MAP  
AND TO ESTABLISH PROCEDURES CONSISTENT WITH STATE LAW.

Under the authority and procedures of the Pennsylvania Municipalities Planning Code, as amended, the Board of Supervisors of Upper Milford Township, Lehigh County, Pennsylvania hereby adopts the following ordinance to enact an Official Map for Upper Milford Township.

**PART 1. TITLE AND PURPOSES.** This Ordinance shall be known as the Upper Milford Township Official Map Ordinance. The Official Map is enacted to serve the purposes authorized for an Official Map in the Pennsylvania Municipalities Planning Code, as amended (hereafter known as the "MPC"), which are hereby included by reference.

**PART 2. ADOPTION.** The attached map entitled "Upper Milford Township Official Map" is hereby adopted as the Official Map for Upper Milford Township.

**PART 3. DEFINITIONS.** If a term is not defined by this Ordinance or by the MPC, and is defined by the Zoning Ordinance, then the Zoning Ordinance definition shall also apply to this Ordinance.

**PART 4. APPLICABILITY AND PROCEDURES.**

401. The Official Map may include any of the following elements:

- (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) Pedestrian ways and easements.
- (4) Railroad and transit rights-of-way and easements.
- (5) Flood control basins, floodways and flood plains, storm water management areas and drainage easements.
- (6) Support facilities, easements and other properties held by public bodies undertaking the elements described in section 301 of the MPC.

402. For the purposes of taking action under this section, the Board of Supervisors or its authorized designee may make or cause to be made surveys and maps to identify, for the regulatory purposes of this article, the location of property, trafficway alignment or utility easement by use of property records, aerial photography, photogrammetric mapping or other method sufficient for identification, description and publication of the map components. For acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor.

403. After adoption of the Official Map, or part thereof, all streets, watercourses and public grounds and the elements listed in section 401 on final, recorded plats which have been granted final subdivision and/or land development approval shall be deemed amendments

to the official map. Notwithstanding any of the other terms of the MPC, no public hearing need be held or 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 the MPC.

404. The adoption of any street, street lines or other public lands pursuant to Article IV of the MPC 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 the Township to improve or maintain any such street or land. The adoption of proposed watercourses or public grounds as part of the official map shall not, in and of itself, constitute or be deemed to constitute a taking or acceptance of any land by the Township.
405. For the purpose of preserving the integrity of the official map of the Township, no permit shall be issued for any building within the lines of any street, watercourse or public ground shown or laid out on the official map. No person shall recover any damages for the taking for public use of any building or improvements constructed within the lines of any street, watercourse or public ground 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. However, 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 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 Township Planning Commission and such Commission 30 days for review and comment and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard. A refusal by the Board of Supervisors to grant the special encroachment permit applied for may be appealed by the applicant to the zoning hearing board in the same manner, and within the same time limitation, as is provided in Article IX of the MPC.
406. The Board of Supervisors may fix the time for which streets, watercourses and public grounds on the official map shall be deemed reserved for future taking or acquisition for public use. However, the reservation for public grounds shall lapse and become void one year after an 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 an official 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 year.
407. The Board of Supervisors may designate any of its agencies to negotiate with the owner of land under the following circumstances:
  - (1) whereon reservations are made;
  - (2) whereon releases of claims for damages or compensation for such reservations are required; or
  - (3) 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 any successor in title.

**PART 5. ADOPTION AND AMENDMENTS.**

501. Prior to the adoption of the official map or part thereof, or any amendments to the official map, the Board of Supervisors shall refer the proposed official map, or part thereof or amendment thereto, with an accompanying ordinance describing the proposed map, to the planning agency for review. The planning agency shall report its recommendations on said proposed official map and accompanying ordinance, part thereof, or amendment thereto within 45 days unless an extension of time shall be agreed to by the Board of Supervisors. If, however, the planning agency fails to act within 45 days, the Board of Supervisors may proceed without its recommendations.
502. The Lehigh Valley Planning Commission and adjacent municipalities may offer comments and recommendations during said 45-day review period. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the Board of Supervisors or planning agency if requested by same during said 45-day review period. Before voting on the enactment of the proposed ordinance and official map, or part thereof or amendment thereto, the Board of Supervisors shall hold a public hearing pursuant to public notice.
503. Following adoption of the ordinance and official map, or part thereof or amendment thereto, a copy of same, verified by the Board of Supervisors, shall be submitted to the recorder of deeds of Lehigh County and shall be recorded within 60 days of the effective date. The fee for recording and indexing ordinances and amendments shall be paid by the Township.
504. When Upper Milford Township proposes to adopt an official map, or any amendment thereto, a copy of the map and the proposed ordinance adopting it, or any amendment thereto, shall be forwarded for review to the Lehigh Valley Planning Commission at the same time it is submitted for review to the Township Planning Commission. The comments of the Lehigh Valley Planning Commission shall be made to the Township within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the Lehigh Valley Planning Commission fails to act within 45 days, the Board of Supervisors may proceed without its comments.
505. If Upper Milford Township proposes to adopt an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality a copy of said official map or amendment shall be forwarded to such adjacent municipality for review and comment by the Governing Body and Planning Commission of the adjacent municipality. The comments of the adjacent municipality shall be made to the Board of Supervisors of Upper Milford Township within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the adjacent municipality fails to act within 45 days, the Board of Supervisors of Upper Milford Township may proceed without its comments.
506. The Township shall send a certified copy of the map, the ordinance adopting it and any later amendments, within 30 days after adoption, to the Lehigh Valley Planning Commission.

Additionally, if Upper Milford Township adopts an official map, or amendment thereto, that shows any street or public lands intended to lead into any adjacent municipality, a certified copy of said official map or amendment shall be forwarded to such adjacent municipality.

**PART 6. PUBLIC ROADS.** The Official Map is not intended to designate which existing roads are public and which existing roads are private.

**PART 7. ENFORCEMENT, VIOLATIONS AND PENALTIES.** All of the enforcement, violations and penalty provisions of the MPC, as amended, are hereby incorporated into this Ordinance by reference. (Note - As of the adoption date of this Ordinance, these provisions were primarily in Sections 616.1, 617 and 617.2 of such Act.)

701. Violations. Any person who shall commit or who shall permit any of the following actions violates this Ordinance:

- (a) Failure to secure a permit or approval required under this Ordinance.
- (b) Placement of false Statements on or omitting relevant information from an application for a permit.
- (c) Undertaking any action in a manner which does not comply with this Ordinance.

702. Enforcement Notice. If the Township has reason to believe that a violation of a provision of this Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice. An official enforcement notice shall state the deadline to complete bringing the property into compliance with this Ordinance, and shall that the applicant has 30 days from the receipt of the notice to appeal to the Board of Supervisors. The Board of Supervisors may grant an appeal if the applicant proves an exception or modification of the requirement is needed to avoid a significant unnecessary hardship which was not self-created by the entity requesting the appeal.

703. Enforcement, Penalties and Remedies. The Causes of Action and Enforcement Remedies provisions of the MPC, as amended, are hereby incorporated by reference. (Note - As of the adoption date of this Ordinance, such provisions were primarily in Section 617 and 617.2 of such law.)

- (1) Violations and Penalties. Any person, partnership, corporation or other entity who has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred dollars plus all court costs, including the reasonable attorney's fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless a District Justice determining that there has been a violation further determines that there was a good faith basis for the person violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day

following the date of the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid over to the Township for the general use of the Township. Imprisonment is not authorized under this Ordinance.

- (2) Remedies. In case any building, structure, improvement or other activity regulated by this Ordinance is placed, located or occurs in violation of this Ordinance, then, in addition to any other remedies provided by law, the Board of Supervisors may institute any appropriate action or proceeding to prevent, restrain, correct or abate such violation.

**SEVERABILITY.** It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. The Board of Supervisors hereby declares that it would have passed this Amendment and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

**REPEALER.** Any sub-section of any Township ordinance or resolution that is clearly in direct conflict with this Ordinance is hereby repealed.

**ENACTMENT.** Under the authority conferred by the Pennsylvania Municipalities Planning Code, as amended, the Board of Supervisors of Upper Milford Township hereby enacts and ordains this Official Map Ordinance this date of \_\_\_\_\_, 200\_\_. This Ordinance shall become effective in 5 calendar days.

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Chairperson, Board of Supervisors

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Attest, Township Secretary

