

ORDINANCE # 109 – 2003

AN ORDINANCE OF CHARLESTOWN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, REGULATING AND DETERMINING THE MAPPING AND PRESERVATION OF LAND FOR FUTURE PUBLIC STREETS, WATERCOURSES AND PUBLIC GROUNDS; THE RESTRICTION OF BUILDING WITHIN MAPPED AREAS AND PROVIDING FOR THE ADOPTION, AMENDMENT AND ENFORCEMENT OF THE ORDINANCE

WHEREAS, Article IV of the Pennsylvania Municipalities Planning Code empowers the Township to enact an Official Map and to provide for its administration, enforcement and amendment; and

WHEREAS, the Board of Supervisors of Charlestown Township (hereinafter "Board of Supervisors") deems it necessary for the purpose of promoting the health, safety and general welfare of the Township to enact such an ordinance; and

WHEREAS, the Planning Consultant has assessed present problems and future needs relating to transportation, parks and open space, the protection and enhancement of water resources and sites for schools, utilities and other public facilities; and

WHEREAS, the Planning Consultant has prepared and recommended to the Board of Supervisors an Official Map Ordinance, consisting of a text and a map to reserve land for these needs; 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 the Planning Commission and subsequent action of the Board of Supervisors.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Charlestown Township, Chester County, Pennsylvania, as follows:

SECTION 1. GENERAL PROVISIONS

- 1.1 Short Title. This Ordinance shall be known and may be cited as the "Charlestown Township Official Map Ordinance."
- 1.2 Authority. This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania in "The Pennsylvania Municipalities Planning Code," Act 247, as amended (hereinafter "MPC").

- 1.3 Purpose. This Ordinance is enacted for the purpose of serving and promoting the public health, safety, convenience and general welfare; to facilitate adequate provision of public streets and facilities; to improve traffic circulation; to provide for the recreational and open space needs of the community; to protect and enhance water resources; and to facilitate the subdivision of land and the use of land and watercourses.

SECTION 2. ESTABLISHMENT OF CONTROLS

- 2.1 Provisions of the Official Map. The Official Map, as enacted and subsequently amended, may identify the location of the lines of existing and proposed public streets, watercourses and public grounds, including widenings, narrowing, extensions, diminutions, openings or closings.
- 2.1.1 Land to be reserved on the Official Map may be identified using aerial photography, property records, photogrammetric mapping or other sufficient method. For the acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed Professional Land Surveyor.
- 2.1.2 The Board of Supervisors, by amending ordinances, may make additions or modifications to the Official Map, or part thereof, by following the provisions included in 2.1. 1 above and may also vacate any existing or proposed public street, water course or public ground contained in the Official Map or part thereof.
- 2.1.3 Unless otherwise specified, all proposed public street rights-of-way and widenings of existing public street rights-of-way shall meet the width requirements specified in the Charlestown Township Subdivision and Land Development Ordinance for the street classification so designated.
- 2.2 Incorporation of the Official Map. The Official Map, including all notations, references and other data shown thereon, is hereby incorporated by reference into this Ordinance as if it were fully described herein.
- 2.3 Certification of the Official Map. The Official Map shall be identified by the signatures of the Board of Supervisors, attested by the Secretary under the following words: "This is to certify that this is the Official Map of Charlestown Township is referred to in Section 2 of Ordinance #____-2003 of Charlestown Township, Chester County, Pennsylvania," together with the date of enactment of this Ordinance. The Official Map shall be kept on file in the Township office.
- 2.4 Changes in the Official Map. If, in accordance with the provisions of this Ordinance, changes are made to the location of lines designating existing or proposed public streets, watercourses or public grounds, such changes shall be entered promptly on said Official Map. All changes, except those resulting from subdivision and land development plans as specified in Section 4.2 below, shall be certified by initialing of the Official Map by the Chairman of the Board of Supervisors, together with the amending ordinance number and date of enactment.

- 2.5 Relations With County Official Map. The adoption of an Official Map by the County shall not affect the Official Map of Charlestown Township, except that the County Official Map shall govern as to County streets and public grounds, facilities and improvements of the County in accordance with the MPC.
- 2.6 Relationship With Adjacent Municipalities. If the Official Map, or amendment thereto, shows any street intended to lead into any adjacent municipality, a certified copy of the Official Map, or amendment thereto, shall be forwarded to such adjacent municipality.

SECTION 3. EFFECTS OF CONTROLS

- 3.1 Construction Within Mapped Streets, Watercourses or Public Grounds. 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 **except for:**
- 1.) **a Building Permit for one single-family detached residential dwelling and/or lawful accessory structures, on a lot which existed prior to the enactment of this ordinance;**
 - 2.) **a subdivision of a lot into two lots for single-family dwellings in the FR-Farm Residential District; or**
 - 3.) **a Building Permit for a barn, swimming pool, shed, tennis court, or like-type structure.**

Except as specified under 3.1.1) and 3.1.2.) and 3.1.3.), 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 including 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 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 Planning Commission and allow the Planning 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 Charlestown Township Zoning Hearing Board in the same manner, and within the same time limitation as is provided in Article IX of the MPC in accordance with Section 5 of this Ordinance.

- 3.1.1 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 45 days after an owner of such property has submitted a written notice to the Board of Supervisors announcing the owner's intentions to

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 agreed to acquire the property or begun condemnation proceedings to acquire such property before the end of 45 days.

3.1.2 The adoption of any street, street lines or other public lands 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 an acceptance of any land by the Township.

3.2 Release of Damage Claims or Compensation. The Board of Supervisors may designate any of its agencies to negotiate with the owner of land whereon reservations are made, releases of claims for damages or compensation for such reservations are required or agreements indemnifying the Board of Supervisors from such 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.

SECTION 4. ADOPTION AND AMENDMENT

4.1 Procedure. Prior to the adoption of the Official Map or part thereof, or any amendments to the Official Map, the Board of Supervisors shall refer to the proposed Official Map, or part thereof or amendment thereto, with an accompanying ordinance describing the proposed map, to the Township Planning Commission and the County Planning Commission for review. The Planning Commissions shall report their recommendations on said proposed Official Map and accompanying Ordinance, or part thereof, or amendment thereto within 45 days unless an extension of time shall be agreed to by the Board of Supervisors. If, however, either Planning Commission fails to act within 45 days, the Board of Supervisors may proceed without its recommendations.

The County and adjacent municipalities may offer comments and recommendations during said 45-day review period in accordance with Section 408 of the MPC. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the Board of Supervisors or Planning Commission if requested by same during the 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 as required by the MPC.

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 Chester County Recorder of Deeds 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 and shall be in the amount prescribed by law for the recording of ordinances by the Recorder of Deeds.

- 4.2 Effect Of Approved Plans on Official Map. After adoption of the Official Map, or part thereof, all streets, watercourses and public grounds and the elements listed in Section 401 of the MPC on final, recorded plats which have been approved as provided by the MPC and the Charlestown Township Subdivision and Land Development Ordinance shall be deemed amendments to the Official Map. Notwithstanding any of the other terms of this Section, 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.

SECTION 5. APPEALS

- 5.1 Appeals. Any appeal from a decision or action of the Board of Supervisors or of any officer or agency of the Township in matters pertaining to this Ordinance shall be made in the same manner and within the same time limitation as is provided for zoning appeals in Article X-A of the MPC, as amended.

SECTION 6. LANGUAGE INTERPRETATIONS AND DEFINITIONS

- 6.1 Language Interpretations. For the purpose of this Ordinance, certain terms and words used herein shall be interpreted as follows:
- 6.1.1 Words used in the present tense include the future tense; the singular number includes the plural, and plural number includes the singular; words of masculine gender include the feminine gender, and words of feminine gender include the masculine gender.
- 6.1.2 The words "includes" or "including" shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
- 6.1.3 The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.
- 6.1.4 The words "shall" and "must" are mandatory, and the words "may" and "should" are permissive.
- 6.2 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.

Public Grounds: "Public grounds," includes:

- (1) parks, playgrounds, trails, paths and other recreational areas and other public areas;
- (2) sites for schools, sewage treatment, refuse disposal and other publicly owned or

operated facilities; and

(3) publicly owned or operated scenic and historic sites.

SECTION 7. ENACTMENT

7.1 Repealer. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of any other section or provision of this Ordinance than the one so declared.

7.2 Effective Date. This Ordinance shall become effective five days after adoption.

ENACTED AND ORDAINED this 20th day of October, 2003.

**BOARD OF SUPERVISORS
CHARLESTOWN TOWNSHIP**

Paul J. Hogan, Chairman

Hugh D. Willig, Vice Chairman

Irene W. Ewald, Member

Kevin R. Kuhn, Member

Michael J. Rodgers, Member

Attest:

Linda M. Csete, Secretary