

CHAPTER 22

SUBDIVISION AND LAND DEVELOPMENT

Part 1

Millheim Borough Official Map Ordinance

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Part 1

Millheim Borough Official Map Ordinance

§101. Short Title. This Part shall be known and may be cited as the "Millheim Borough Official Map Ordinance."

(Ord. 238, 4/14/2009, §1)

§102. Authority. This Part is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, the Pennsylvania Municipalities Planning Code (PA MPC), Act of 1968, as amended.

(Ord. 238, 4/14/2009, §2)

§103. Purpose.

1. This Part is enacted for the following purposes:

- A. To promote, protect, and facilitate the general health, safety, and welfare of its citizens.
- B. To facilitate adequate provision of public streets and sidewalks.
- C. To improve traffic circulation.
- D. To provide for the recreational and open space needs of the community.
- E. To provide pedestrian ways and easements.
- F. To protect and enhance water resources.
- G. To provide for flood control basins, floodways and floodplains, stormwater management areas and drainage easements.
- H. To facilitate the subdivision of land and the use of land and watercourses.

(Ord. 238, 4/14/2009, §3)

§104. Establishment of Controls.

1. The Official Map, as enacted by this Part, and subsequently amended, may identify the location of the lines of:

- A. Existing and proposed public streets, well sites, watercourses and public lands, including widenings, narrowings, extensions, diminutions, openings or closings of same.
- B. Existing and proposed public land, parks, playgrounds, and open space reservations.
- C. Pedestrian ways and easements.
- D. Railroad and transit rights-of-way and easements.
- E. Flood control basins, floodways and floodplains, stormwater management areas and drainage easements.

F. Support facilities, easements and other properties held by public bodies undertaking the elements described in the Municipalities Planning Code.

2. At the time of enactment of this Part, all existing surveys designating the exact location of the lines of existing public street rights-of-way, watercourses and public lands, including surveys prepared by government agencies or incorporated as part of final, recorded, subdivision and land development plans duly approved by the Millheim Borough Council shall, by reference, be deemed an attachment to the Official Map for the purpose of so designating the exact location of said existing lines.

3. The Borough, by amending ordinances, may make additions or modifications to the Official Map, or part thereof. For the purpose of initially preserving land on the Official Map, property records, aerial photography, other methods sufficient for identification, description and publication of the Official Map shall be sufficient. For the acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor. The Borough may also vacate by ordinance any existing or proposed public street, watercourse or public lands contained in the Official Map, or part thereof.

4. Unless otherwise specified, all proposed public street rights-of-way and widening of existing public street rights-of-way shall meet the width requirements specified in the Millheim Borough Code of Ordinances and/or the Centre County Subdivision and Land Development Ordinance.

(Ord. 238, 4/14/2009, §4)

§105. Incorporation of the Official Map. The Official Map, including all notations, references and other data shown thereon, is hereby incorporated by reference into this Part as if it were fully described herein.

1. Certification of the Official Map. The Official Map shall be identified by the signatures of the Millheim Borough Council and Mayor, attested by the Borough Secretary, under the following words: "This map is a part of the Official Map of Millheim Borough, Centre County, Pennsylvania," together with the date of enactment. The Map shall be kept on file with the Borough Secretary. Following adoption of this Part and the Official Map, or any amendment thereof, a copy of the same, verified by the Borough Secretary, shall be submitted to the Recorder of Deeds of Centre County and shall be recorded within 60 days of the effective date of this Part or amendment thereof.

2. Changes in Official Map. If, in accordance with the provisions of this Part, changes are made to the location of lines designating existing or proposed public streets, watercourses or public lands, such changes shall be entered promptly on said Map. All changes, except those resulting from subdivision and land development plans shall be certified by the initialing of the Map by the President of the Borough Council, together with the amending ordinance number and date of enactment. Following adoption of the ordinance and Official Map, or any amendment thereof, a copy of the same, verified by the Borough Secretary, shall be submitted to the Recorder of Deeds of Centre County and shall be recorded within 60 days of the effective date of the ordinance or amendment thereof.

3. Relationship with Adjacent Municipalities. If the Official Map, or amendment thereto, shows any streets or public lands intended to lead into any adjacent municipalities, a copy of said Official Map or amendment shall be forwarded to such adjacent municipality. The comments of the adjacent municipality shall be made to the Borough Council within 45 days of such forwarding, and the proposed action by the Borough Council shall not be taken until such comments are received; provided, however, if the adjacent municipality fails to provide comments within 45 days, the Borough Council may proceed without the comments of the adjacent municipality. Upon adoption of the Official Map, or any amendment thereof, in which any street or public lands are intended to lead into an adjacent municipality, a certified copy of the Map and ordinance adopting it shall be forwarded within 30 days after adoption to the adjacent municipality.

(Ord. 238, 4/14/2009, §5)

§106. Effect of Controls.

1. For the purpose of preserving the integrity of the Official Map of the Borough, no permit shall be issued for any building within the lines of any street, watercourse or public land shown or laid out on the Official Map. No person shall recover any damages for the taking for public use of building or improvements constructed within the lines of any street, any watercourse or public land 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 which cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the Borough Council for the grant of a permit to build. Before granting any permit authorized in this Section, the Borough Council may submit the application 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 Borough Council to grant the 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 the Municipalities Planning Code.

2. The Borough Council may fix the time for which streets, watercourses and public lands on the Official Map shall be deemed preserved for future taking or acquisition for public use.

3. The reservation for public land shall lapse and become void 1 year after an owner of such property has submitted a written notice to the Borough Council announcing his intention 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 Borough Council shall have acquired such property before the end of the year.

4. The adoption of any street, street lines or other public lands pursuant to this Part, 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 Borough to improve or maintain any such street or land. The adoption of proposed watercourses or public lands 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 Borough.

(Ord. 238, 4/14/2009, §6)

§107. Release of Damage Claims or Compensation.

Borough Council may designate any of its representatives to negotiate with the owner of land under the following circumstances:

- A. Where reservations are made.
- B. Where releases of claims for damages or compensation for such reservation are required.
- C. Where agreements indemnifying the Borough Council or the Borough from claims by others may be required. Any releases or agreements when properly executed by the Borough Council and the owner and recorded, shall be binding upon any successor in title.

(Ord. 238, 4/14/2009, §7)

§108. Adoption and Amendment.

1. Prior to the adoption of the Official Map or part thereof, or any amendments to the Official Map, the Borough Council shall refer the proposed Official Map or part thereof, or amendment thereto, with an accompanying ordinance describing the proposed map, to the Borough Planning Commission for review. The Borough Planning Commission 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 Borough Council. If, however, the Borough Planning Commission fails to act within 45 days, the Borough Council may proceed without its recommendations.

2. The County and adjacent municipalities may offer comments and recommendations during said 45-day period in accordance with the Municipalities Planning Code. Local authorities, park boards, and similar public bodies may also offer comments and recommendations to the Borough Council or Planning Commission if required 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 Borough Council shall hold a public hearing pursuant to public notice.

3. After adoption of the Official Map, or part thereof, all streets, watercourses and public lands on final, recorded subdivision and land development plans which have been duly approved by the Centre County Planning Commission in consultation with the Borough Council shall be deemed amendments to the Official Map. Notwithstanding any other terms of this Part, no public hearing need be held or notice given if the amendment of the Official Map is the result of the addition of a plan which has been duly approved by the Centre County Planning Commission in consultation with the Borough Council.

(Ord. 238, 4/14/2009, §9)

§109. Violations and Sanctions.

1. Whenever any person, partnership or corporation shall have violated the terms of this Part, the Borough Secretary shall cause a written notice to be served upon the owner, applicant, developer, property manager or other person responsible for the property within 30 days. The Secretary shall give notice to the owner, applicant, developer, property manager or other person responsible for the property or the violation that if the violation is not corrected, the Borough may correct the same and charge the landowner or other

persons responsible and the cost thereof plus penalties, as specified herein, for failure to comply.

2. Such notice shall be delivered by the United States Postal Service, first class, postage prepaid, or by certified or registered mail; or by personal service; or, if the property is occupied, by posting notice at a conspicuous place upon the affected property.

3. The failure of any person, partnership or corporation to comply with this Part within the period stated in the notice by the Secretary constitutes a violation with possible sanctions which may be as much as \$500 dollars per day of each violation, plus court costs, including reasonable attorney's fees incurred by the Borough as a result of prosecution of such violation. Each and every day of continued violation shall constitute a separate violation.

4. In the event that the owner, developer, occupant, applicant, property manager or other person responsible fails to comply with the terms of this Part within the time specified by the Secretary, the Borough may take any actions necessary to correct the violation. The costs for correction of the violation shall be in addition to any penalties for violation for failure to comply.

5. In addition to the sanctions, costs and penalties provided for by this Section, the Borough may institute proceedings in courts of equity to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

(Ord. 238, 4/14/2009, §9)

§110. Appeals. An appeal from a decision or action of the Millheim Borough Council or any officer or agency of the Borough regarding this ordinance shall be made in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended.

(Ord. 238, 4/14/2009, §10)

§111. Interpretation.

1. Severability. If any provision, sentence, clause, section, or any part of this Part is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Part. It is hereby declared as the intent of the Borough Council, that this Part would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, clause, section, or part thereof not have been included herein.

2. Saving Clause. Nothing in this Part shall be construed to affect any suit or proceeding pending in any court, or any rights acquitted, or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

3. Conflict with Other Laws. The provisions of this Part shall be deemed to be minimum requirements to meet the purposes stated herein. Where the provisions of this Part impose greater restrictions than those of any Federal or State statute, rule, regulation or other ordinance, the provisions

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of this Part shall prevail. Where the provisions of any Federal or State statute, rule, regulation, or other ordinance impose greater restrictions than those of this Part, the provisions of such Federal or State statute, rule, regulation or ordinance shall prevail.

(Ord. 238, 4/14/2009, §11)