

ORDINANCE NO 961210

An ordinance to adopt the Greene Township Transportation and Public Park, Playground and Open Space Ordinance and Official Map; providing for the prohibition against the issuance of building permits within the lines of any streets, rights-of-way or recreational areas shown and laid out on the Official Map; creating provisions for future taking as public property, streets or recreational areas as set forth on the Official Map and containing severability and repealer clauses.

WHEREAS, the Pennsylvania Municipalities Planning Code (hereinafter the MPC), 53 P.S. Sec. 10401, et seq., grants the governing body of a municipality the authority to make and/or amend Official Map of the municipality; and

WHEREAS, the MPC authorizes a municipality to adopt or amend an official map as such to identify the location of property, trafficway alignment and existing and/or proposed streets within the municipality for future planning purposes; and

WHEREAS, the Board of Supervisors finds that is in the best interest of the Township of Greene and it's residents that Greene Township adopt an Official Map and establish requirements which prohibit construction of buildings or development contrary to the said amendments and provide for future taking of land as may be required to effectuate the Plan; and

WHEREAS, Greene Township has, pursuant to the MPC, given prior notice to the County of Erie, specifically the Erie County Department of Planning, and governing bodies of adjacent municipalities into which future streets are proposed to lead, of Greene Township's intent to adopt the within Official Map and Ordinance, and has given the County of Erie through its Department of Planning and the adjacent municipalities the opportunity to offer comments and recommendations during a forty-five (45) day review period;

WHEREAS; Greene Township has held a public hearing, after public notice, regarding the adoption of the Ordinance and Official Map, as is required by the MPC.

WHEREAS; the said official map is consistent with the spirit and intent of the Comprehensive Plan of the Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Supervisors of Greene Township, Erie County, Pennsylvania, that the Greene Township Official Map shall be adopted as follows:

SECTION 1. The Greene Township Transportation and Public Parks, Playgrounds and Open Space Ordinance as set forth on the map attached hereto and made a part hereof is hereby adopted and approved as the Greene Township Transportation and Public Parks, Playgrounds and Open Space Official Map.

SECTION 2. As is material, the Transportation System and Generalized Land Use maps as hereby adopted as the Greene Township Official Map identifies existing and proposed private drives, streets not open as of adoption of this Ordinance, principal arterial streets requiring a minimum 80' right-of-way, minor arterial streets requiring a minimum 80' right-of-way, minor collector streets requiring a minimum 60' right-of-way, local connector roads requiring a minimum 50' right-of-way, intersection surveys, bridges and underpasses and identifies proposed future streets not open at the time of the adoption of this Ordinance.

SECTION 3. Effective upon adoption of this Ordinance, 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 shall be deemed amendments to the Greene Township Official Map.

SECTION 4. The adoption of any street, street lines or other public lands as a part of the Greene Township Official Map as amended by this Ordinance shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of a street nor the taking or acceptance by the Township of any land, nor shall it obligate Greene Township to improve or maintain any such street or land.

SECTION 5. For the purpose of preserving the integrity of the Greene Township Official Map, no permit shall be issued for any building within the lines of any street, watercourses, recreational area or public grounds shown or laid out on the Official Map. No persons 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, it cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the governing body (Greene Township) for the grant of a special encroachment permit to build. Before granting any special encroachment permit authorized in this section, the governing body (Greene Township) may submit the application for a special encroachment permit to the local planning agency and allow the planning agency thirty (30) days for review and comment, and shall give public notice and hold a public hearing at which all parties in interest shall have the opportunity to be heard.

A refusal by the governing body 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 limitations as provided in Section 10901, et. seq., of 53 Purdon's Statutes.

SECTION 6. The Board of Supervisors shall, as a condition of approval of any subdivision of land or land development plan, require compliance with the Official Map as attached hereto or amended in the future.

SECTION 7. The Board of Supervisors reserves the right to fix by ordinance the time for which streets, watercourses, recreational areas and public grounds shown on the Official Map as adopted by this Ordinance shall be deemed reserved for future taking or acquisition for future use, it being acknowledged that Section 406 of the MPC requires that the reservation of street and other public grounds lapses one year after the property owner has submitted a written notice to the municipality announcing his or her intention to build, subdivide or otherwise develop the land covered by the reservation. For purposes of this Section, the governing body (Greene Township) establishes one year as the time for which street, watercourses, and public grounds on the Official Map shall be deemed reserved for future taking or acquisition for public use. For purposes of this section, such one-year period shall be deemed to commence upon written notice to the governing body (Greene Township) announcing the owner's or developer's intention to build, subdivide or otherwise develop the land covered by the reservation, or said owner or developer has made formal application for an official permit to build a structure for private use on land identified on the Official Map as reserved for streets or other public grounds. Nothing in this Ordinance shall be construed to prohibit Greene Township from acquiring the property or beginning condemnation proceedings or acquire such property before the end of said year.

SECTION 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstances is for any reason held to be invalid or unconstitutional by any court, such holdings shall not be construed to affect the validity of any remaining provision, It is hereby declared the legislative intent that this Ordinance would have been adopted had such invalid or unconstitutional provision of its application not been included herein.

SECTION 9. All Ordinances or parts of any Ordinance inconsistent herewith are hereby repealed.