

**THORNBURY TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
ORDINANCE NO. 2021-2**

**AN ORDINANCE OF THORNBURY TOWNSHIP, CHESTER COUNTY,
PENNSYLVANIA, RESCINDING THE 1983 OFFICIAL TOWNSHIP MAP AND
ORDINANCE AND ADOPTING THE 2021 OFFICIAL MAP AND ORDINANCE OF
THORNBURY TOWNSHIP, REGULATING AND DETERMINING THE MAPPING
AND RESERVATION OF LAND FOR FUTURE PUBLIC STREETS, TRAILS,
WATERCOURSES AND PUBLIC GROUNDS; RESTRICTING BUILDING WITHIN
MAPPED AREAS; ESTABLISHING PROCEDURES FOR THE AMENDMENT OF
THE MAP AND ENFORCEMENT OF THE ORDINANCE VIA FINES, LEGAL
PROCEEDINGS AND APPEALS**

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

WHEREAS, the Board of Supervisors of Thornbury Township (hereinafter “Board of Supervisors”) deems it necessary for the purpose of ensuring the continued health, safety, and general welfare of the Township to maintain a current Official Township Map; and

WHEREAS, the Thornbury Township Comprehensive Plan Update, adopted May 15, 2018, assessed present problems and future needs relating to transportation, utilities, parks, open space, the protection and enhancement of natural resources, and other public facilities; and

WHEREAS, the 2018 Thornbury Township Comprehensive Plan Update stated that an Official Map should be considered a priority strategy for meeting the Township’s planning goals; and

WHEREAS, the Planning Commission has recommended to the Board of Supervisors that the 1983 Official Map be repealed and an Official Map Ordinance, consisting of text and an Official Map be enacted to reserve land for these needs; and

WHEREAS, the Board of Supervisors has given due public notice of hearings on the proposed repeal of the 1983 Official Map and Ordinance and the adoption of the 2021 Official Map and Ordinance and has held such a public hearing; 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, this 21st day of December 2021, the Board of Supervisors of the Township of Thornbury, Chester County, Pennsylvania hereby **ENACTS** and **ORDAINS** as follows:

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SECTION I:

SECTION 37-1. SHORT TITLE

This Chapter shall be known and may be cited as the “Thornbury Township Official Map Ordinance of 2021, as amended.”

SECTION 37-2. AUTHORITY

This Chapter 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 170 of 1988, December 21, P.L. 1329, as amended (hereinafter "MPC").

SECTION 37-3. PURPOSE

This Chapter 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 other natural resources; and to facilitate the subdivision of land and the use of land and watercourses.

SECTION 37-4. DEFINITIONS

Definitions. Unless a contrary intention clearly appears, the following words and phrases shall have the meanings set forth in this subsection.

BUILDING

A combination of materials to form a permanent structure having walls and a roof.

A. **DETACHED**

A building having only one dwelling unit from ground to roof, independent outside access and open on all sides.

B. **SEMIDETACHED**

A building having one shared or party wall in common with an adjoining building.

C. **ATTACHED**

A building in a group of more than two buildings wherein there are two or more party walls in common with the adjoining buildings.

PUBLIC

Owned, operated, or controlled by a government agency.

PUBLIC GROUNDS

Public grounds include:

A. Parks, playgrounds, trails, paths and other recreational areas and public areas;

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- B. Sites for schools, sewage treatment, refuse disposal, and other publicly owned or operated facilities; and
- C. Publicly owned or operated scenic and historic resources.

SCENIC CORRIDOR

A public road having scenic, historic, cultural, or natural qualities that have been identified on the Thornbury Township Official Map.

WATERCOURSE

Any natural or artificial stream, river, creek, ditch, channel, canal, waterway, gully or ravine in which water flows in a definite direction or course, either continuously or intermittently.

SECTION 37-5. PROVISIONS

The Official Map, as enacted and subsequently amended, shall identify the location of existing and proposed public streets, well sites, watercourses, trails, and public grounds.

- A. For the purpose of initially reserving 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.
- B. The Board of Supervisors, by amending ordinances, may make additions, deletions or modifications to the Official Map, or part thereof...

SECTION 37-6. INCORPORATION

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

SECTION 37-7. CERTIFICATION

The Official Map shall be identified by the signatures of the Board of Supervisors, attested by the Township Manager under the following words: "This is to certify that this is the Official Map of Thornbury Township referred to in Chapter 37, Official Map, of the Code of the Township of Thornbury," together with the date of enactment of this Chapter. The Official Map shall be kept on file in the Township office.

SECTION 37-8. CHANGES

If, in accordance with the provisions of this Chapter, 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

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and land development plans as specified in Section 37-14 below, shall be certified by initialing of the Official Map by the Chair of the Board of Supervisors, together with the amending ordinance number and date of enactment.

SECTION 37-9. RELATIONSHIP WITH COUNTY OFFICIAL MAP

The adoption of an Official Map by the County shall not affect the Official Map of Thornbury Township, except that the County Official Map shall govern as to County streets and public grounds, facilities and improvements in accordance with the MPC.

SECTION 37-10. 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 37-11. 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. 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 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 Township Planning Commission and allow the Planning Commission 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 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 Thornbury Township Zoning Hearing Board in the same manner and within the same time limitation as is provided in Article IX of the MPC.

- A. 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 acquisition for public use. The reservation for public grounds shall lapse and become void one (1) year after an owner of such property has submitted a written notice to the Board of Supervisors, announcing the owner's 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.
- B. The adoption of any street, street lines, or other public lands as part of the Official Map shall

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not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street, nor a 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.

SECTION 37-12. RELEASE OF DAMAGE CLAIMS OR COMPENSATION

The Board of Supervisors may designate any of its agents or 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 37-13. ADOPTION AND AMENDMENT

- A. 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 to the County Planning Commission for review. The Township Planning Commission 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 the County or Township Planning Commissions fails to act within 45 days, the Board of Supervisors may proceed without their recommendations.
- B. 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 during the 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.
- C. Following adoption of the ordinance and Official Map, or part thereof or amendment thereto, a copy of the 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.

SECTION 37-14. EFFECT OF APPROVED PLANS

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

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approved as provided by the MPC and Chapter 115, Subdivision and Land Development, shall be deemed amendments to the Official Map. Notwithstanding any of the other terms of this section and § 37-13 above, 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 37-15. NOTICE OF VIOLATION

Whenever any person, partnership, or corporation shall have violated the terms of this Chapter, the Township Manager shall cause a written notice to be served upon the owner, applicant, developer, property manager, or other person responsible for the property or the violation, directing them to comply with all the terms of this Chapter within seven days, or such additional period not to exceed 30 days, as the Township Manager shall deem reasonable. Further, the Manager 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 Township may correct the same and charge the landowner or other persons responsible the cost thereof, plus penalties as specified herein for failure to comply. Such notice may be delivered by the U.S. 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.

SECTION 37-16. VIOLATIONS AND PENALTIES

Any person who violates or permits a violation of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a District Justice, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this Chapter. No judgment shall be imposed until the date of the determination of the 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 a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

SECTION 37-17. 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 Chapter 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 II. SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that such remainder shall be and shall remain in full force and effect.

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SECTION III. REPEALER

All Township ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed and rescinded to the extent of any inconsistency or conflict.

SECTION IV. EFFECTIVE DATE

This Ordinance shall take effect five (5) days after the date of its enactment by the Board of Supervisors.

ENACTED and ORDAINED this ____ day of _____, 2021.

James Benoit, Chairman

Robert Anthony, Vice Chairman

Michael Gallagher, Supervisor

Joseph Lisa, Supervisor

Robert Wiggins, Supervisor

ATTEST:

Judy Lizza, Township Manager