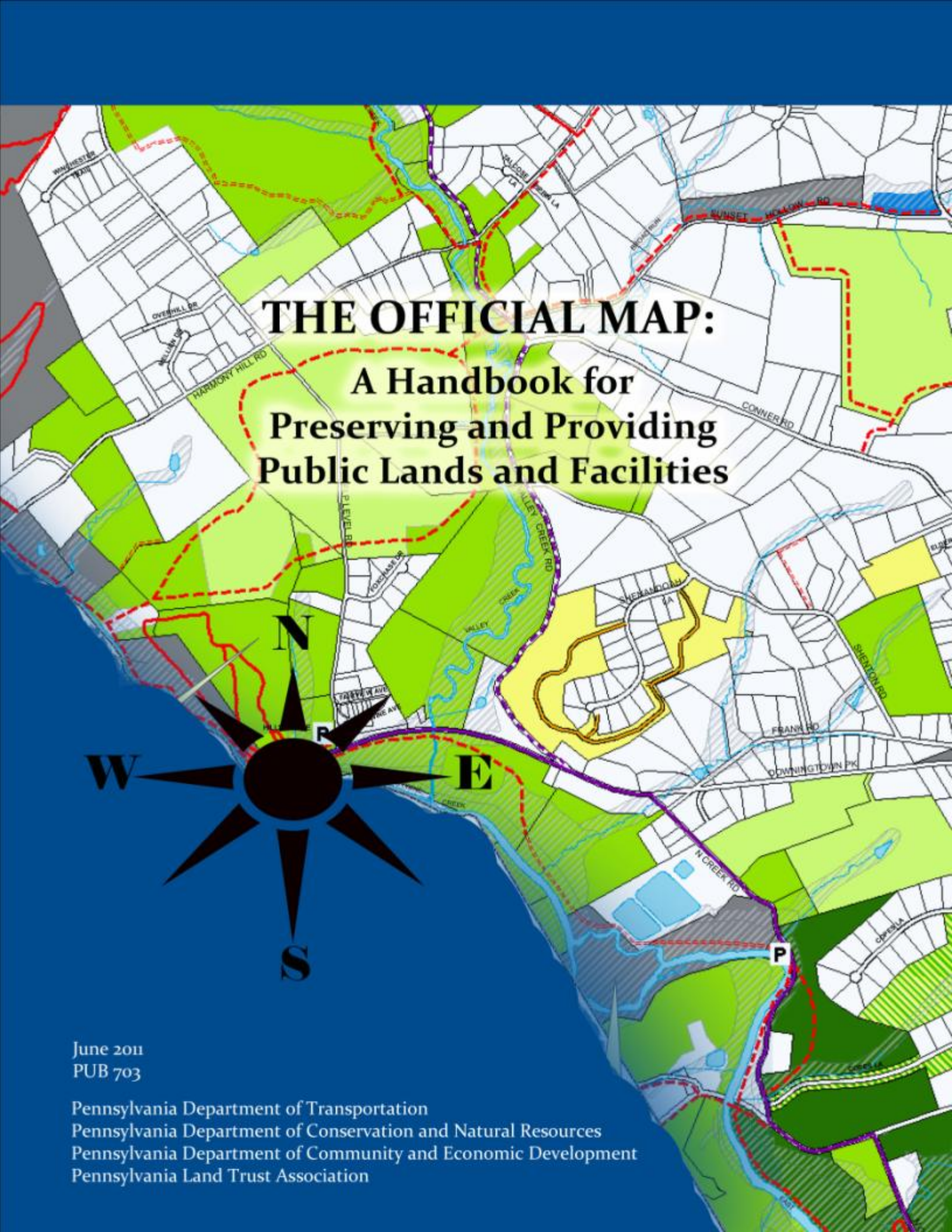




THE OFFICIAL MAP:

A Handbook for Preserving and Providing Public Lands and Facilities

June 2011
PUB 703

Pennsylvania Department of Transportation
Pennsylvania Department of Conservation and Natural Resources
Pennsylvania Department of Community and Economic Development
Pennsylvania Land Trust Association



The Official Map: A Handbook for Preserving and Providing Public Lands and Facilities



This handbook is intended as a resource for Pennsylvania's county and municipal leaders and professional planners who seek practical guidance in more effectively implementing the land use and transportation recommendations from their comprehensive plan efforts by adopting an official map.

Due to the broad range of improvements that can be implemented through an official map, this handbook was developed through the collaboration of several different organizations—the Pennsylvania Department of Transportation, Pennsylvania Department of Conservation and Natural Resources, Pennsylvania Department of Community and Economic Development, Pennsylvania Land Trust Association, Pennsylvania State Association of Boroughs, Pennsylvania State Association of Township Supervisors, Chester and York County Planning Commissions, Brandywine Conservancy, and the Pennsylvania Chapter of the American Planning Association. Representatives from these organizations provided input and review comments, enabling the development of this handbook as part of a continuing effort to collectively encourage more effective implementation of comprehensive planning.



As is the case with any guidebook that relates directly to language in the Municipalities Planning Code or other legislation, the potential for various legal interpretations clearly exists. Municipalities are encouraged to seek legal counsel before adopting any ordinances, including an official map.

As Pennsylvania's varied government entities work together to more effectively plan and implement planning efforts, we are supporting our individual missions as well as advancing shared goals—strengthening communities, conserving resources, and making the most of infrastructure investments.





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The Official Map FACT SHEET

for Local Officials

Municipalities and counties are authorized by Article IV of the Pennsylvania Municipalities Planning Code (MPC) to develop and implement official maps. Official maps may include, but are not limited to:

- *Existing and proposed public streets, watercourses, and public grounds, including widening, narrowing, extensions, diminutions, openings, or closings.*
- *Existing and proposed public parks, playgrounds, and open space reservations.*
- *Pedestrian ways and easements.*
- *Railroad and transit right-of-way and easements.*
- *Flood control basins, floodways and flood plains, storm water management areas, and drainage easements.*
- *Support facilities, easements, and other properties held by public bodies undertaking the elements of a comprehensive plan.*

What is an Official Map?

An “official map” is a combined map and ordinance designed to implement the goals and community vision set forth in the comprehensive plan. The official map shows the locations of planned future public lands and facilities such as transportation, recreational parks and trails, and open space. The official map expresses a municipality’s interest in acquiring these lands for public purposes sometime in the future. Official maps can be used by townships, boroughs, cities, and counties. The official map is not to be mistaken for the official zoning map of a municipality.

What are the Benefits?

- The official map can help focus limited financial resources on projects that meet and advance community goals.
- The official map helps municipalities make improvements such as connecting and improving the local street network, intersection improvements, protecting important natural areas, and providing more green space, recreation facilities, trails, and sidewalks.
- The official map saves time and money by informing property owners and developers of municipal goals and intentions in advance of development plans.
- The official map is an effective negotiation tool for municipalities, helping to ensure that development is compatible with and supportive of public goals.
- The official map supports other land use management tools (zoning, subdivision/land development, etc.) by advancing the implementation of infrastructure and public spaces.
- The official map gives municipalities a competitive advantage in securing grants.

What are the Basics of Official Maps?

- A municipality should have an adopted comprehensive plan if they choose to adopt an official map.
- Official maps can cover the entire municipality or only a portion.
- The typical cost to develop an official map and ordinance is \$5,000-\$6,000.
- The governing body is required to provide a 45-day review period and one public hearing (at minimum) prior to adoption.
- Once a property owner or developer notifies a municipality of their intention to build, subdivide, or perform other work on land that is located on an official map, the municipality has up to a year to confirm its acquisition interest and negotiate to acquire the land.
- Acquisition can take the form of dedication by owner, purchase of land or easement by the municipality, negotiations with owner/developer to make desired improvements, or eminent domain (although rare), if the municipality chooses.
- Approximately 64 of Pennsylvania’s municipalities, and one county, have an official map. This handbook aims to reduce misunderstandings and misinformation that may have deterred others from achieving the successes made possible by the official map.
- Public outreach and education is key to a successful official map development, adoption, and implementation process.



Lessons Learned from Pennsylvania Municipalities

Educating the public is essential.

- Municipal staff or consultants assigned to develop an official map should be sure to incorporate an educational element early into the adoption process.
- Sending letters and informational materials to all property owners directly impacted by the proposed official map can help alleviate fears and concerns.
- Use multiple opportunities to communicate with the public. Use of community newsletters, Web sites, and meetings where a presentation was given by the professional planners and traffic engineers has proven helpful to some municipalities.

Supporting studies and documentation are helpful.

- Recent traffic studies; impact fee studies; and recreation, trails, and open space plans provide a strong basis for the features identified for future public use in the official map.
- The municipality's comprehensive plan should be current to support the purpose of the map. The comprehensive plan may need updating prior to initiating the official map development and adoption process.



College Township Official Map, Centre County

Keeping the official map visible is important.

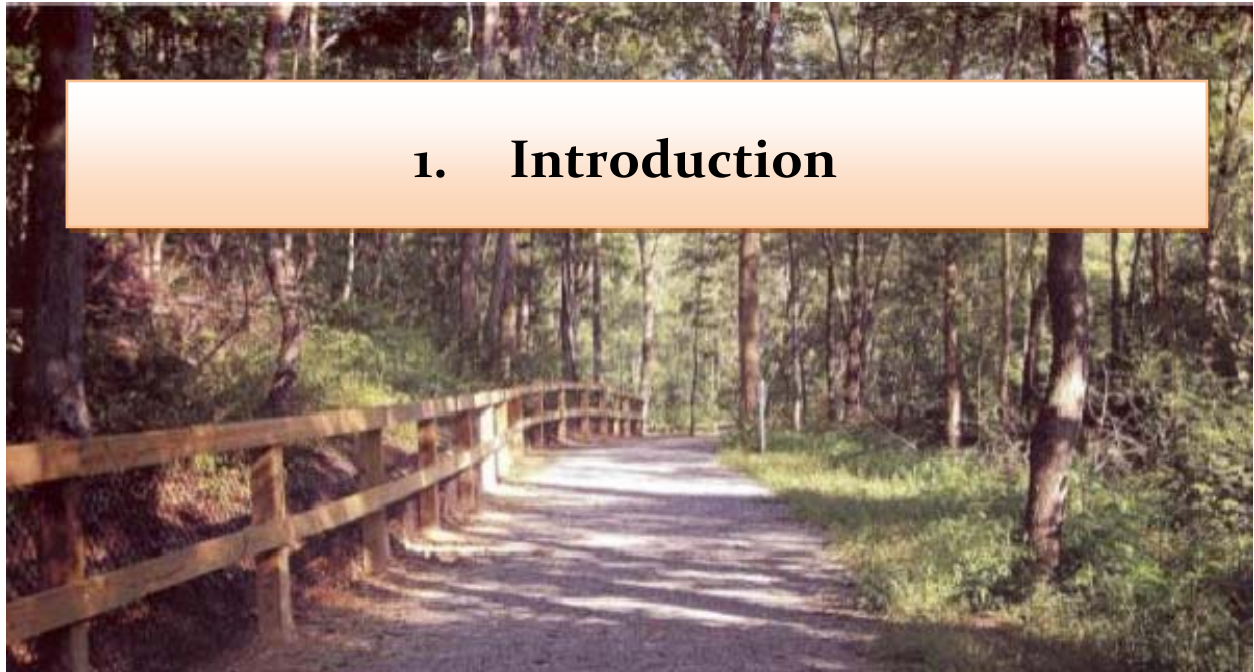
- Have the official map on display where elected officials' meetings are held, as a reminder to consider the official map when plans are being reviewed and discussed.
- Post the official map and ordinance on the municipal Web site in a visible location.
- One municipality added its zoning districts to the official map to show consistency with the adopted zoning ordinance.
- References to the official map should be added to other ordinances (e.g., zoning, subdivision/land development), where appropriate.
- The official map should be periodically revisited and revised to reflect updates to the comprehensive plan.

Working with others can produce significant accomplishments.

- Some municipalities work with their Environmental Advisory Council (EAC) to use the official map to protect environmental resources.
- Other municipal committees, such as a trail committee, use the official map to envision new connections and determine potential new trail easements.
- Sharing the official map with potential developers can help streamline the implementation of infrastructure improvements and the dedication of land for the siting of planned public facilities.



1. Introduction



A. Background

An “official map” is a combined map and ordinance designed to aid in proactively planning for future growth in a municipality by helping to implement the elements of an adopted Comprehensive Plan that relate to transportation improvements, public land, and other facilities. The authority to create an official map is granted in Article IV of the [Pennsylvania Municipalities Planning Code](#) (MPC). A municipality may adopt an official map for all or a portion of the municipality for a number of public uses, including, but not limited to:

1. Existing and proposed public streets, watercourses, and public grounds, including widening, narrowing, 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 right-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

An “official map” is a combined map and ordinance designed to aid in proactively planning for future growth in a municipality by helping to implement the elements of an adopted Comprehensive Plan.



the elements described in section 301 of the MPC (Preparation of a Comprehensive Plan).

An official map is not a municipal base map, existing or future land use map, a zoning map, or any map in a comprehensive plan, though these can be used to help identify areas for the official map ordinance. MPC Section 107(b) defines an official map as a “land use ordinance” with the map as the primary component of an official map ordinance. Listing a parcel or portion of a property on an official map notifies developers and property owners that the area mapped is of interest to a municipality for public purposes sometime in the future.

Designation of a property on the official map does not constitute a taking in and of itself—it simply gives the municipality an opportunity to negotiate acquisition of a property.

According to the MPC, designation of a property on the official map does not constitute a taking in and of itself. It simply gives a municipality an opportunity to negotiate acquisition of property, or rights thereto, where a public use would be beneficial before development or redevelopment occurs. Once a property owner or developer notifies a municipality of their intention to build, subdivide or perform other work on land that is located on an official map, the municipality has one year to either purchase the land, come to a mutual agreement with the developer, condemn the land through eminent domain, or decide not to pursue the acquisition of the land. The municipality is not obligated to build the facilities shown on the official map and may decide to let development proceed without waiting the full year. In coordination with the municipality, the developer may also decide to construct the improvement shown on the official map, in which case development can begin sooner than one year, as the necessary approvals are received.

Interviews held with municipalities with official maps during the preparation of this guidance revealed that the most common implementation practice involves negotiations between the municipality and landowner/developer that result in either the developer constructing the mapped improvements, mutually acceptable acquisition of the land (fee simple or easement), or an agreement on an alternative approach that meets the public need. In an apparently small number of cases, such negotiations failed and either the municipalities used their power of condemnation to acquire the land, or the one-year reservation time period lapsed and the owner was free to build or subdivide following the normal regulatory process.

As a multi-agency (PennDOT, DCNR, and DCED) guidance document, this handbook focuses on the development and use of official maps to facilitate various motorized and non-motorized transportation improvements, the establishment of recreational trails, and the preservation of parks and open space as a means of managing development density and traffic impacts on the



Manor Township Official Map, Lancaster County

transportation system.

However, this guidance has been written fairly broadly, so it may also apply to other improvements that can be implemented through the use of an official map in accordance with the MPC.

B. Official Maps as a Planning Implementation Tool

Despite 1988 amendments to the MPC that made it easier for municipalities or counties to create an official map, an inventory of Pennsylvania municipalities has shown that only 65 municipalities are currently using official maps. There are municipalities in 15 counties with known official maps. The official maps are focused in eastern and southcentral Pennsylvania, but are also found in Centre, Allegheny, Butler, and Erie Counties. This inventory has been incorporated into the appendices. The list also indicates the focus of the ordinance—transportation improvements, open space preservation, trails, parks, or other public uses.

The MPC specifically states that an official map “may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 with regard to public lands

65 Pennsylvania municipalities in 15 counties are using official maps. They are focused on transportation improvements, open space preservation, trails, parks, and other public uses.



and facilities,” thereby providing a direct link between the official map and an adopted comprehensive plan. In addition to this linkage, preparation of a detailed comprehensive plan—and potentially other more specialized plans/reports (i.e., park plans, traffic studies, etc.)—prior to initiating the official map process is highly recommended. These efforts provide a strong basis for the public improvements to be incorporated into the official map ordinance and help secure public support for the use of an official map as an implementation tool. Official map ordinances that are clearly based on a recently adopted comprehensive plan and associated studies may also be less prone to legal challenge.

C. Statutory Authority and Limitations

Article IV of the MPC authorizes municipalities to adopt official maps, designating areas of interest for possible future rights-of-way (for example, roads and trails) and/or public grounds (for example, parks or flood control lands). Highlights of the provisions of Article IV, which is included in full in the appendices, are as follows:

Section 401(a). The official map may include “all or a portion of the municipality.” The official map “may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 [of the MPC] with regard to public lands and facilities.” Subsection 401(a) goes on to list items (see next section) that may be included on the map but does not limit municipalities to items on the list:

- (1) Existing and proposed public streets, water courses 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 floodplains, 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.”

Section 401(b). Official maps may be developed with the use of new or existing “property records, aerial photography, photogrammetric mapping, and other



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methods sufficient for identification, description, and publication of the map components.” The municipality does not need to engage in field surveys prior to adopting an official map. If and when a municipality wishes to actually acquire land designated on the official map, it is required to create boundary descriptions by metes and bounds pursuant to a survey by a licensed surveyor.

Section 404. The adoption of an official map by ordinance does not, in and of itself, constitute an active acquisition of property rights. It is simply a notification of a future intent to do so: The depiction of private property on an 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 municipality to improve or maintain any such street or land. The adoption of proposed water courses 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 municipality.”

Section 405. “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.” Owners seeking to build on reserved land may seek a special encroachment permit.

Section 406. From the date that a landowner gives written notice to the municipality of an intention to build on, subdivide, or otherwise develop property shown on the map, the continued reservation of that property is limited to one year. There is some question based on the specific language in Section 406 whether the one-year timeframe applies to improvements other than “public grounds,” but general practice indicates that one year has been used as the maximum time limitation for all improvements shown on an official map. There is no indication that the one-year time limit is intended to suspend the normal processing of a subdivision or land development plan application. As is the case with any legal action by a municipality, adopting and implementing an official map ordinance should be done with the advice of the municipal solicitor.

Section 408. The powers of the governing bodies of counties to adopt, amend, and repeal official maps shall be limited to land and watercourses in those municipalities wholly or partly within the county which have no official map in effect at the time an official map is introduced before the governing body of the county, and until the municipal official map is in effect. The adoption of an official map by any municipality, other than a county, whose land or watercourses are subject to county official mapping, shall act as a repeal *protanto* of the county official map within the municipality adopting such ordinance. Notwithstanding any of the other terms or conditions of this section the county official map shall govern as to county streets and public grounds, facilities, and improvements, even though such streets or public grounds, facilities, and improvements are located in a municipality which has adopted an official map.



D. Open Space Lands Act, Municipal Codes, and Eminent Domain

The [OSLA](#) was initially enacted as Act 442 of 1968 (32 P.S. Section 5001, et. seq.). It has been amended since that time, specifically to allow municipalities to make use of its acquisition authorization and financial planning provisions.

OSLA authorizes municipal “protection of natural or scenic resources,” including “scenic areas for public visual enjoyment from public rights-of-way” and the preservation of “sites of historic, geologic, and botanic interests.” Although OSLA is broad in the resources it authorizes municipalities to protect, OSLA does not authorize municipalities to use eminent domain for acquisition of private property rights.



New Road Implemented by Official Map -
Warwick Township, Lancaster County

For a municipality to utilize the OSLA authority to acquire property interests in land, it must engage in a planning process and prepare a “resource, recreation, or land use plan” in which any real property ultimately targeted by the municipality for preservation must have been

“designated for open space uses” (32 P.S. Section 5003).

The municipal solicitor must be the one to determine proper procedures of official map implementation.

Consequently, use of the official map in accordance with the requirements of the MPC, including a basis in a comprehensive plan, appears to satisfy the requirements for planning under OSLA. However, such a conclusion should be reviewed with the municipal solicitor.

A municipality is required to establish procedures under OSLA for reviewing open space areas considered for acquisition, rating the relative desirability of interest in particular parcels of land, and establishing the price that the municipality is willing to pay. OSLA authorizes acquisition not only of fee interest (as would be appropriate for parkland), but also easement rights (as would be appropriate for protection of natural features such as steep slopes, floodplains, and mature woodlands).

OSLA also provides a procedure for municipalities, pursuant to approval by the voters in a referendum, to establish a dedicated tax (either a portion of the municipal real property tax millage or an add-on to the earned income tax) for funding acquisition of rights in land under OSLA (see Conservation Referenda Guide at ConservationTools.org). Consequently, the adoption of an official map by a municipality can also serve as a springboard for acquisition of rights in land pursuant to the authority granted by OSLA.

The official map and the section of the MPC that enables official maps do not themselves authorize the use of eminent domain. For condemnation powers, municipalities must instead turn to their respective codes (e.g., Second Class Township Code, etc.) Once private land has been reserved on the official map, the municipality may be entitled to use the eminent domain power under its respective municipal code. However, this eminent domain power does not necessarily extend to all the items that may be placed on an official map. For example, municipalities may not use eminent domain for any purpose other than a valid “public purpose.”

All questions and issues regarding eminent domain must be addressed and analyzed by your municipal solicitor.



Case Study: Chestnuthill Township, Monroe County

Chestnuthill Township (2010 population of 17,156) is one of the fastest growing communities in Monroe County. The Board of Supervisors adopted the West End Open Space and Recreation Plan, which identifies a number of properties considered important to greenway development and recreational needs of the township and surrounding municipalities. The township recently completed a multi-municipal comprehensive plan, which addresses growth and development issues from a regional perspective. In addition, the Chestnuthill Township Traffic Study recommends improvements to maintain a safe and efficient road system.

Chestnuthill Township's approach to developing the official map and associated ordinance was to use previously completed plans prepared by professional planners and engineers. The official map identified properties for public interest using the following categories: parkland/open space acquisitions; conservation easements (including Agricultural Easements); and acquisitions for road realignments, widening and traffic signals. The map also displays floodplains, existing open space land/parkland/greenways, schools, and fire and ambulance stations.

The township provided public education prior to adoption of the official map and ordinance. Education included sending a letter and informational materials out to all property owners impacted by the map. This included an invitation to a meeting where a presentation was given by the professional planners and traffic engineers. A question and answer session followed. Responding to the input from impacted property owners, the township modified the time limits for subdivisions and land development plans from one year to six months, and for zoning permits to three months. With these modifications in place, the township held a public hearing and adopted the original official map in 2004.

The official map is always on display in the township meeting room and is often referred to during supervisor meetings as plans are being reviewed and discussed. The township zoning officer and the township engineer review all permits and plans to identify whether projects coincide with land reserved on the official map. If this is the case the applicant (if they are not already aware) is notified and a work session is scheduled with the supervisors. The township staff and supervisors have found that many property owners appreciate having more than the option of selling their land to a developer.

The township, in conjunction with property owners, Monroe County, and DCNR, has protected more than 1,500 acres of land since the adoption of the official map six years ago. Major accomplishments include assembling a 430-acre natural area, a conservation easement protecting 12 miles of stream corridor along the exceptional value McMichaels Creek, and more than 540 acres of public access in its headwaters. This has been accomplished through a number of methods, including landowner donations, fee simple acquisitions, conservation easements, agricultural easements, and transfer of development rights. ***All have been through willing seller negotiations, and the township has avoided the use of condemnation and its associated negative connotations.***



2. Benefits of Official Maps for Providing Public Lands and Facilities

A. General Benefits

Municipalities that have successfully adopted and implemented an official map have seen a number of general benefits to using the tool. These benefits are described below and case studies that help illustrate the benefits are included throughout this handbook.

1. Official maps inform property owners and developers of long-range municipal goals and intentions before they make development plans. With municipal interests clearly articulated up front, municipalities and private parties are better positioned to work cooperatively, rather than staking out adversarial positions.
2. Time and money may be saved by enabling development plans to be prepared with property owners fully informed of public needs regarding the land. Too often, developers present detailed plans based on costly engineering only to discover that the municipality has other ideas for the land.
3. The clarity provided by the official map creates an atmosphere conducive for municipal officials and developers to discuss what is necessary to meet their respective interests.
4. By establishing an acquisition plan for features included on the official map, a municipality can focus limited resources on the projects that will best advance its long-term goals.



5. An official map allows the municipality up to a year to confirm its acquisition interest and negotiate to acquire the land once the landowner has expressed the intent to develop the reserved land. If the landowner can't receive a reasonable return on the land due to the reservation, the landowner has the option of pursuing a special encroachment permit to build.
6. An official map provides an effective method for implementing municipal plans and complements zoning and Subdivision and Land Development Ordinance (SALDO) controls. Zoning and subdivision ordinances can help a municipality advance its land use goals, but generally are limited in their ability to guide the placement of public spaces and infrastructure. The official map fills this gap in municipal planning.
7. Official maps add credibility to planning efforts by codifying the public improvements identified in a municipal comprehensive plan.
8. An official map provides support for grant applications by providing a competitive advantage over other applications. For example, mapping future greenways demonstrates that a municipality has a cohesive plan and some of the technical means to implement it.



Hollow Creek Greenway,
implemented by Official Map of
Springfield Township, York County

B. Specific Benefits

Aside from the broad benefits outlined above, there are a number of more specific benefits and/or applications that municipalities with official maps have realized. An overview of these benefits follows. A listing of the features included on each of the official maps identified through the inventory is included in the appendices.

Managing and Directing Growth

A municipality's official map may play an effective role in managing and directing growth while providing for parks or other public uses by identifying the location of key public

The official map greatly increases the likelihood that key conservation resources will be protected.



grounds and infrastructure in advance of the public's need and reserving the necessary land. Such action can serve dual purposes by providing for recreational needs while managing development density and infrastructure demands, including transportation.

The official map greatly increases the likelihood that key conservation resources will be protected by enabling the municipality to reserve land for future parks, trails, greenways and other recreational and conservation purposes without having to immediately commit to purchasing the land or easements. In developing an official map, a municipality effectively prioritizes its acquisition needs, enabling it to focus its resources on properties that are most important to the community.

Establishing bicycle and/or pedestrian pathways and trails is one of the most common applications of the official map.

Reserving Land for Future Roadways and Pathways

A number of municipal goals can be addressed through the reservation of land for future roadways and/or bicycle and pedestrian pathways. These may include improving safety, managing congestion, and improving access to services and facilities. Official maps, if prepared and implemented, will contribute significantly to such goals. In doing so, however, future roadways or pathways shown on an official map should not be considered to be precise depictions of actual right-of-way (ROW), but as general alignments with flexibility to address site conditions and development plans. Actual alignments should be negotiated openly with the property owner/developer to ensure public goals are addressed while enabling the reasonable development of the property. This flexibility is especially necessary in cases where federal funds may be needed for construction or other conditions that warrant the National Environmental Policy Act (NEPA) to be triggered, as pre-selection of a specific alternative (alignment) is counter to NEPA regulations.

Improving the connectivity of the roadway or pathway system is often a key in the alleviation of congestion or safety improvements. The prevalence of cul-de-sacs or similar roadways often focuses traffic onto roadways not designed for such traffic levels. As such, improving connectivity as development occurs can reduce congestion and improve overall safety by providing transportation options.



Official maps may also be used to implement demonstrated needs for roadway widening or intersection improvements. Depicting areas where wider roadways may be needed can supplement setback requirements in municipalities with zoning or facilitate future widening where such regulations are not in place. An official map has a similar benefit for intersections demonstrated to be in need of future improvements, especially in cases where additional ROW is needed.

Official maps can be an effective supplement to airport hazard zoning in preserving the integrity of aviation facilities.

Establishing bicycle and/or pedestrian pathways and trails is one of the most common applications of the official map and perhaps one of the most easily implemented improvements due to the flexibility in siting in association with subdivisions or land development plans. Depicting pathways on a municipality-wide or regional basis on an official map can help ensure, over time, broad connectivity between residential development and important facilities and services, and interconnection with regional facilities such as parks and schools—without extensive public expenditure.

Preserving the Integrity of Aviation Facilities

Pennsylvania Act 164 of 1984 requires municipalities with defined airport hazard areas to adopt, administer, and enforce airport zoning in order to avoid conflicts with incompatible land uses. The economic and access benefits of airports can be significantly affected through development of incompatible land use development surrounding the airport. These impacts may include:

- Lighting that can detract from a pilot's ability to identify an airport at night.
- Reflective surfaces that produce blinding or distracting glare.
- Electronic transmissions that can interfere with navigational signals or radio communications.
- An increase in the potential for collisions between birds and aircraft, as can happen near water impoundments, landfills, sewage treatment plants, and similar uses.
- General well-being or safety when noise-sensitive uses or those that attract large numbers of persons are located in proximity to an airport.



Official maps can be an effective supplement to airport hazard zoning in preserving the integrity of aviation facilities. They can be used to improve access through roadway system improvements and/or preserve critical open space areas. Airport owners may even be an important partner in any acquisition by providing at least partial funding. As such, it is important to involve the owners/managers of aviation facilities in the comprehensive planning process and enactment of airport hazard zoning and official maps.

Creating Public/Private Partnerships for Public Improvements

The MPC enables municipalities with official maps to 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 governing body 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 governing body shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the one-year period.

Research conducted as part of the preparation of this handbook indicates that the use of eminent domain to implement the improvements included on an official map is rare. Most municipalities with official maps have found that the improvements can be implemented through a developer's willingness to incorporate them into a subdivision or land development plan to the satisfaction of the municipality or successful negotiation for fee simple or easement purchase, thereby establishing a public/private partnership in the provision of public improvements. In cases where the full implementation of improvements is anticipated to require the use of federal funding or otherwise trigger NEPA, it is important that any acquisition process follow the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#) to help ensure the integrity of the overall process.



Case Study: Bushkill Township, Northampton County

In the face of record rates of land development and a looming new interstate connection, Bushkill Township (2010 population of 8,178) effectively used the official map to take swift action to better protect its land and water resources from undesirable impacts commonly associated with rampant development activities.

At the direction of the township supervisors, the Environmental Advisory Council (EAC) began researching potential options. During a meeting with a local planning consultant, it was suggested that the official map may offer an opportunity to protect environmental resources such as the wooded stream corridors throughout Bushkill Township. The simplicity of the official map made it the “tool of choice”—it could be quickly developed and implemented.

At the time, two local interest groups, the Bushkill Stream Conservancy and the Two Rivers Council of Governments, were working on a Greenways Plan for the Bushkill Creek Watershed. The EAC worked closely with the Greenways Plan consultant to develop a “woodlands map layer” for the township. In addition, a 150-foot buffer (from the edge of the stream on each side) was established for all stream channels mapped by the United States Geological Service (USGS). The final mapping was then integrated into the existing township map of roads and infrastructure, and was brought before the township's planning commission and board of supervisors for review and adoption as a new official map ordinance.

As part of the implementation of the new official map ordinance, the township was involved in various efforts to educate its landowners and local land developers on the implications of this new conservation technique. Standard public meetings were advertised and held at the township building to present the proposed ordinance and to address residents' concerns and questions. Additionally, the EAC drafted newsletter articles which were mailed to all township residents and landowners. As with all new regulations, some opposition was evident, but the vast majority was in favor of the new ordinance. Larger landowners expressed the most concern, but most accepted the new ordinance once they realized that it would allow for responsible new development, while protecting property values for everyone by creating improved and more desirable development within the community.

Following passage of the official map ordinance, the township developed an open space program, including the funding mechanism required to support it. (Township voters approved a .25% earned income tax in the general election of 2005 to support the open space program.) An open space program was recognized as essential for the successful application of the official map, given that some properties proposed for development would eventually need to be purchased in part or on whole by the township.

The township now works with landowners affected by the official map to negotiate responsible land development scenarios that best preserve mapped riparian woodlands. The negotiation process begins with the EAC, and then moves on to the planning commission and finally to the board of supervisors, with concurrent professional review and consideration by the township engineer and solicitor. Numerous conservation options are available, including avoidance and minimization of development impacts, conservation easements, conservation design planning, and land purchase through the open space program.



3. Adoption Considerations



A. What You'll Need

As indicated earlier, the MPC provides for a direct link between an official map and a comprehensive plan by stating that the official map “*may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 with regard to public lands and facilities.*” In addition to this linkage, preparation of a detailed comprehensive plan and potentially other more specialized plans/reports (i.e., park plans, traffic studies, etc.) prior to initiating the official map process is recommended to provide a strong basis for the features to be incorporated into the map and ordinance. As is the case with other implementation ordinances and tools, official maps that are clearly based on an adopted comprehensive plan and associated studies may also be less prone to disputes.

Official maps should be clearly based on an updated, adopted comprehensive plan.

The technical documentation described above will also prove to be critical in securing the public and governing body support necessary to implement an official map. Municipalities that develop an official map should be sure to incorporate an educational element into the adoption process to help build support from the public, planning commission, governing body, and legal counsel.

All of these entities should understand the adoption and implementation phases for official maps from the onset of the adoption process. Failure to gather the necessary support from any of these entities can complicate—or even make impossible—adoption and implementation of an official map.

B. Obstacles and Challenges

The most common concern for public officials considering the adoption of an official map appears to be related to the perceived use of eminent domain to secure the public lands necessary to implement the improvements included in the official map. This concern is often shared by landowners, developers, and the general public and is a significant obstacle in the adoption of an official map. However, the interviews conducted with municipalities that have

Eminent domain is rarely used to implement the objectives of the official map.

official map ordinances have revealed that eminent domain is used very rarely as part of the implementation process. Most improvements are implemented through developer or landowner negotiation, successful purchase negotiations for easements or land, donation, etc., with eminent domain typically only used as a last resort. Users of this handbook can review the success stories contained in this handbook and/or contact the municipalities in the appendices to

determine the actual implementation mechanisms used for improvements that mirror those desired in their municipality.

Another challenge identified in the implementation phase of an official map involves the use of the tool to facilitate improvements on a roadway where federal funds are anticipated to be used for design or construction, thereby triggering NEPA. In cases where NEPA is applicable, a full range of alternatives must be evaluated that meet the project's purpose and need. Therefore the NEPA process, which involves extensive resource agency coordination, may result in the selection of an alternative other than the alignment specifically depicted on the official map. However, this does not negate the value of the official map as a planning tool. Municipalities that incorporate planned relocations of roadways and/or other facilities requiring the use of federal funds into their official map should (1) base the planned alignment on environmental data in the comprehensive plan; (2) document the project's purpose and need in the comprehensive plan and/or more detailed study(ies); and (3) coordinate with PennDOT and

their respective Metropolitan or Rural Planning Organization (MPO/RPO) in an effort to verify the applicability of NEPA and facilitate the environmental clearance process.

C. Lessons Learned

Many of the municipalities with official maps were interviewed during the preparation of this handbook. The lessons gleaned from these interviews are summarized below. This information is also incorporated into the “Official Map Fact Sheet” included at the beginning of this handbook. The intent of the fact sheet is to provide an overview of the handbook contents and serve as an educational tool that can be distributed to public officials and the general public when preparation and adoption of an official map is being considered. Municipalities and counties with official maps are encouraged to contact PennDOT’s Center for Program Development and Management with any additional lessons learned to further enhance the peer training value of this guidance.

Preparing for the Official Map

- An adopted comprehensive plan that reflects current policies should be a prerequisite to adopting an official map.
- More detailed planning to address areas of specific needs, such as traffic studies, open space/recreation plans, etc., may be needed to supplement the comprehensive plan and garner public support.
- Public and governing body education needs vary but should not be overlooked when considering adoption of an official map. Some municipalities have gone as far as notifying all affected property owners and holding special workshops prior to the adoption hearing. Transparency has proven to be a valuable tool in winning support from residents.
- The length of time taken to prepare and adopt an official map has ranged between one month and several years. The typical timeframe for the preparation and adoption process is six months to one year.
- The cost associated specifically with preparing and adopting the official map (not including the comprehensive plan or other associated studies) ranges from \$1,500 to \$10,000, with an average of about \$6,000. Technical and/or financial support may be available through county planning commissions or various state agencies.

A transparent, cooperative approach and public education are effective tools in building public support for official maps.



Funding/Acquisition Considerations

- While the use of eminent domain has sometimes been proven to be necessary for full project implementation, especially in projects involving multiple properties, its use has been relatively rare in conjunction with official maps.
- The MPC provides up to one year for a municipality to acquire or otherwise act on the implementation of improvements included on the official map, but some municipalities have shortened this timeframe in their ordinance.
- Securing the financial resources necessary for official map implementation has proven to be the biggest challenge in implementing official maps for many municipalities, but developer negotiation and/or partnerships with others (i.e., airport authorities, infrastructure authorities, land trusts, etc.) have proven to lessen these costs significantly.
- If federal funds are anticipated to be used to design and/or construct improvements to the transportation system, schedule allowances should be made to complete the NEPA (environmental) clearance process, and any land acquisition must be made in compliance with the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#).

Official maps should show improvements with the highest priority or greatest likelihood of financial implementation—not all possible future improvements.

Administrative Considerations

- Zoning and/or subdivision ordinances should be amended as an official map ordinance is adopted to include references to the official map, as this will help ensure enforcement of the official map ordinance over time.
- Many municipalities have found that it is not necessary to show all possible improvements on the official map, but instead limit it to those with the highest priority and/or with the greatest likelihood of financial implementation, thereby building support for official map amendments over time.
- Municipalities wishing to acquire lands for open space preservation (as contrasted with public park establishment), where the use of eminent domain may prove necessary,



should be fully aware of the limitations in the OSLA and enabling language in Article IV of the MPC and their applicable municipal codes.

- Adoption and implementation of an official map should always be closely coordinated between a municipality and the county, especially in cases where the county has adopted an official map and/or when the county SALDO governs in the municipality.

D. Costs

Roughly one half of the municipalities interviewed during the preparation of this handbook prepared their official map and ordinance through in-house efforts. However, in many cases the involved staff were no longer working for the municipality, and/or estimates of the time required to prepare the map and ordinance were not available.

Of those municipalities contracting with consultants to prepare the map and ordinance, the range of costs was from \$1,500 to \$10,000, with the average around \$6,000. Some counties are facilitating the preparation of official maps by providing cost-sharing assistance or the technical capability to produce the map.



Implementation of Official Map for new alignment, Graphite Mine Road - Upper Uwchlan Township, Chester County

It is important to note that the cost for the preparation of the map and ordinance may not constitute the complete cost associated with the adoption of an official map. As indicated earlier, a comprehensive plan should be adopted prior to the adoption of an official map. There is no requirement as to the timeframe between the adoption of the two documents, but there should be consistency between the plan and ordinance.

Therefore, there may be some costs associated with updating or preparing

a comprehensive plan. Also, several of the municipalities with official maps have indicated that it is worthwhile to prepare other supporting documents, such as traffic impact studies, prior to the preparation of the official map. Costs for preparing comprehensive plans and more specialized documents vary widely, so estimates are not readily available.

The contents of this handbook may also reduce the cost associated with the adoption of an official map. While model ordinance language has not been incorporated here due to the wide range in the level of detail in municipal official map ordinances, the appendices do include hyperlinks to most of the official maps and ordinances from across Pennsylvania, in addition to a summary of the features included on the maps. Those considering the adoption of an official map ordinance may readily identify those municipalities using the map to preserve or develop similar improvements and download the ordinances for review and analysis for their use.

Various means to address the costs associated with acquiring lands and making the improvements reflected on an official map are addressed in Chapter VI, Implementation Considerations.

E. Success Stories

There are approximately 64 municipalities and one county in Pennsylvania with adopted official maps as of early 2011. The appendices list these municipalities, information on the features included in their respective official maps, and links to most of the maps and ordinances. Most officials from municipalities with official maps have indicated that they feel the planning tool is a worthwhile and effective means of securing the improvements included on the map. Users of this handbook are encouraged to identify and contact geographically or demographically similar municipalities using official maps to verify their experiences, challenges, and successes.

In addition to the general success the municipalities in the appendices have expressed, there are a number of pictures and maps included throughout this document that depict physical improvements that were initiated through an official map, thereby illustrating actual success stories.

A few of the municipalities with official maps have provided brief summaries of their experience. These summaries, or case studies, are included throughout this handbook.



Case Study: East Bradford Township, Chester County

In its 2004 10-year comprehensive plan, East Bradford Township (2010 population of 9,942) made quality of life a priority, specifically in the form of quality recreational and open space opportunities.

The township adopted its official map in 2002, and has updated the documents annually since then. According to the Assistant Township Manager, the official map has been a primary tool for implementing the township's open space goals. It serves as a guiding reference for the open space review board, which makes recommendations to supervisors on open space and trail acquisitions. The township's advisory trail committee also utilizes the official map to envision new connections, determine potential new trail easements, and make recommendations to the supervisors. In addition, the document is key in conversations with landowners about potential acquisitions in helping them to understand the "big picture." When the township recently updated the open space, recreation, and environmental resources component of its comprehensive plan, the official map was updated to reflect new priorities.

While the backbone of the official map is its condemnation powers, the township has only had to use eminent domain once since 2002. In that case, following five years of unsuccessful negotiations with a landowner, the township condemned a 20-acre parcel that was sought for incorporation into the township's trail system. According to the Assistant Township Manager, the condemnation did not result in a great deal of controversy, most likely because the property was deemed undevelopable. In order to ease anxiety of landowners along this same corridor, the township, which already had open communication with these individuals, contacted them to discuss the condemnation. Specifically, the township reinforced to these property owners that 1) the property was highly constrained and therefore its best possible use was for open space and trails; 2) the township had negotiated with the property owner for 4-5 years and had offered fair market value for the purchase of the property; and 3) the township had no intention to pursue similar action in the future.

The township has also used the one-year time limitation set forth in the MPC to negotiate with the owner of a 200-acre property. In the end, the township was able to negotiate the fee acquisition of a 25-acre portion for the purpose of trail use and recreation. Only a portion of the property was purchased because the land was developable and very expensive. The acquired parcel offered scenic value to public roadways and included a segment that was proposed for a public trail.

As testimony to the effectiveness of the official map tool, to date the township boasts eight parks that provide an assortment of passive and active recreation as well as 20-30 linear miles of multi-use trails. In all, the township has acquired 650 acres of land for open space and recreation and has 600 acres under conservation easement through various land trust organizations.



4. Technical Guidance



A. Determining the Features to be Mapped

The MPC gives municipalities the authority below to adopt official maps:

“The governing body of each municipality shall have the power to make or cause to be made an official map of all or a portion of the municipality **which may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302** with regard to public lands and facilities, and which may include, but need not be limited to:

- (1) Existing and proposed public streets, water courses 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 floodplains, 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.”



Given this language, it is clear that official maps are to be used as implementation tools for adopted comprehensive plans and are not to be adopted in the absence of such planning efforts. The key to effective use of this planning implementation tool is to have completed the level of planning necessary to “justify” the improvements/features on the official map. Recent adoption of a comprehensive plan, a parks and open space plan, and other plans that were subject to extensive public involvement provides a strong basis for including specific features on the official map and justifies to the public the reservation of particular lands on the official map.

Municipalities with official maps recommend depicting only those improvements that are viewed as critical and/or believed to be implementable within a reasonable timeframe. It is not recommended that all possible improvements be depicted. Municipalities should amend the official map periodically to show new improvements as successes are achieved.

B. Securing Necessary Funding and Technical Support

There are two aspects of an official map that require technical and/or financial support: adoption and implementation. As indicated in the previous chapter, many municipalities with official maps have prepared and adopted the map and ordinance through in-house capabilities. Others have hired professional planning consultants, incurring an average cost of \$6,000. However, municipalities may also have to prepare a comprehensive plan if a current plan does not exist, and/or prepare other technical planning documents such as traffic studies, open space plans, etc. The costs for such studies can vary widely depending on the scope of services to be provided. Municipalities wishing to adopt an official map should contact their county planning commission early in the process, as many counties (Monroe, Chester, etc.) may provide technical (i.e., map preparation) or financial support for such efforts.

Two aspects of an official map initiative require technical and/or financial support: adoption and implementation.

Acquiring land or constructing improvements included on the official map is likely to require significantly more financial resources than the adoption process, except in cases where such improvements can be made and dedicated to the municipality through the subdivision/land development process. In cases where this is not possible, the municipality will have to pay the landowner for the reserved land, either via a purchase or eminent domain. Consequently, official



maps are commonly backed by a funding mechanism whereby a municipality has the financial wherewithal to support its map designations when the time comes.

For most improvements expected to be depicted on the official map, municipalities may establish this funding mechanism via dedicated earned income, property, or realty transfer tax revenue, borrowing, or impact fees. Municipalities may also establish funding using existing taxation and borrowing authority and existing revenue streams.

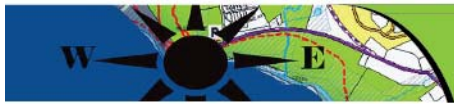
There may also be opportunities for teaming with partners to secure necessary funding. For instance, airport or other municipal authorities may be able to provide funding to secure open space beyond an airport boundary or secure right-of-way and construct needed infrastructure. Conservation organizations or land trusts may also prove to be a source of funding for open space or trail acquisition and development. Municipalities should identify and partner with such organizations with similar goals or needs as the official map is being developed and throughout the implementation phase.

C. Creating and Adopting the Draft Official Map Ordinance

Property locations for open space acquisition, the development of trails and/or roadway improvements, etc., can be surveyed and incorporated into the official map through the use of property records, aerial photography, photogrammetric mapping, or other methods sufficient for identification. During the implementation phase, the boundary descriptions for any lands to become public must be made in metes and bounds and sealed by a licensed surveyor.

Below is an outline of the procedural requirements from the MPC and steps necessary for valid adoption of an official map:

1. The municipality should have adopted a comprehensive plan.
2. The governing body, either itself or by charge either to its planning agency, a specific ad hoc committee, or other authorized designee, prepares the official map for consideration.
3. The governing body refers the proposed official map, once in draft form, and the accompanying ordinance by which it would be adopted, to the municipal planning agency for review.



4. The municipal planning agency reports its recommendations back to the governing body within 45 days, unless an extension is agreed to by the governing body. (Failure of the planning agency to take action within the designated time limit, be it 45 days or an extension thereof, authorizes the governing body to proceed without a planning agency recommendation.)
5. Concurrently, the municipality forwards a copy of the draft official map and adopting ordinance to the county planning agency for review and comment, again within either 45 days or an extension of the 45-day statutory time limit.
6. In the event that, as shown on the draft official map, any street or public lands are shown as leading into any adjacent municipality, then a copy of the draft official map must be forwarded to the adjacent municipality or municipalities for review and comment within the 45-day time limit (again, as with both the county and adjacent municipalities, failure to act within 45 days absolves the governing body of this requirement and allows it to proceed to public hearing).
7. The governing body may (but is not required to) seek comment from other local authorities, such as park boards or environmental advisory committees or municipal water or sewer authorities.
8. The governing body sets a date, time and place for a public hearing, and provides “public notice” (notice published once each week for two successive weeks in a newspaper of general circulation in the municipality, stating the time and place of the hearing and the particular nature of the matter to be considered at the hearing—first publication shall not be more than 30 days, and the second publication shall not be less than 7 days from the date of the hearing).
9. The governing body holds a public hearing on the draft official map and the ordinance to adopt the map. (A public hearing is a formal meeting held to inform and obtain public comment, prior to taking action on the adoption of the ordinance and official map.)
10. The municipal governing body adopts the ordinance and official map by majority vote at a public meeting.

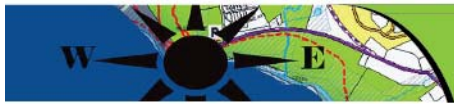


11. Following adoption, a verified copy of the ordinance and map must be recorded in the county recorder of deeds office within 60 days after the effective date of the official map.
12. A certified copy of the ordinance and map must be forwarded, within 30 days after adoption, to the county planning agency, and as well to any adjacent municipality where the official map shows any street or public lands intended to lead into that adjacent municipality.

These procedural requirements must be adhered to if the official map is to be free from challenges to its validity on the basis of procedural irregularities. After adoption, all relevant streets and public grounds/ facilities, when approved on final, recorded plats, shall be deemed amendments to the official map.

After a county adopts an official map, it must send a certified copy of the map and ordinance adopting it to every municipality within the county. The MPC does not specify a time limit for this action.

Article IV does not specify whether, following reviews of the draft official map by the municipal planning agency, the county planning agency, other local boards and commissions, and/or adjacent municipalities, the revised official map must then be presented to all of these agencies. However, based upon appellate court decisions dealing with adoption of zoning ordinance amendments, there is a substantial risk that a court would find the municipality in breach of the procedural obligations if it were to adopt a revised official map without resending the revised official map to at least the municipal planning agency and the county planning agency at least 45 days prior to the public hearing.



Case Study: Uwchlan Township, Chester County

Uwchlan Township has developed its trail system through the use of its official map, building the most extensive trail network of any municipality in Chester County. Founded in 1712, Uwchlan Township was once a predominantly rural, farming community, with a population of 500 post-World War II. But in the early 1960s, the township experienced rapid growth with many of its farms replaced by development. Today the township, which covers an area of 10.4 square miles, has a population of more than 18,000.

Uwchlan Township's official map was established in the 1970s and is updated approximately every 10 years, with the most recent version amended in 2009. Because the township is built out to near capacity with little room for new development, the official map has been primarily used for planning the development and improvement of trails, parks, and road systems.

Trail projects can often be laborious and challenging, especially when so many landowners are involved in a single project. However, the official map helps the process along, mainly by alerting landowners and developers of the community's intentions well in advance. The township also worked to align trail acquisitions with current rights-of-way. The township has never had to resort to condemnation to acquire land.

Uwchlan Township's vision for trails is a cohesive network, not single trails. By adding the zoning districts from the zoning ordinance to this map, the township's planners demonstrated that the official map was consistent with the adopted zoning ordinance. The drawings of existing residential structures on the map clearly illustrate that the proposed trail system is practical and reasonable given the development that has already taken place in the township.

Uwchlan Township is fortunate in that their community hosts a large section of the County Struble Trail, a facility designed and operated by the Chester County Parks and Recreation Department (CCPRD). The CCPRD did extensive planning for the County Struble Trail. As a result the township had much of their regional trail planning done for them, thus there is not an extensive trail planning section in the township's zoning ordinance or subdivision ordinance. Therefore, the official map is the primary ordinance used in trail planning.

Uwchlan Township's success has been a result of strong political and community support. They are a highly suburbanized community with few large open spaces available for creating new recreational facilities. Trails are one of the few options for expanding recreation opportunities to meet the needs of a growing population.

Uwchlan Township has found the official map to be a critical tool in the long-term planning and development of the community. It is a clear and concise document showing the township's intentions so that residents and developers know exactly what to anticipate.



5. Implementation Considerations

A. Incorporating the Official Map into the Regular Planning Process

Consistency with Comprehensive Plan

A municipality should not adopt an official map unless and until it has adopted a comprehensive plan pursuant to Article III of the MPC. Subsection 401(a) of the MPC states that the official map “may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to Section 302 [of the MPC] with regard to public lands and facilities...” The scope of items covered by the official map may be as broad as the scope of the comprehensive plan. The MPC provides that the comprehensive plan “shall include, but need not be limited to,

The time, effort, and money necessary to develop an official map will be reduced if the comprehensive plan is used as the primary guide for the official map.

the following related basic elements...” The list can be found in Section 301 of the MPC and includes land use management, street systems, pedestrian and bikeway systems, parks, prime agricultural lands, wetlands, woodlands, steep slopes, floodplains and more.

In addition to the requirements of Section 401, there are a number of practical benefits to the official map being tied to the comprehensive plan. One, it avoids possible grounds for legal challenge even if that challenge would not ultimately be successful. Two, the time, effort, and



money necessary to develop an official map will be reduced on all fronts if the comprehensive plan is used as the primary guide for the official map. Third, many municipalities with official maps have found that having a strong planning basis prior to adopting an official map greatly enhances the ability to build support from the public and local officials.

Adding Credibility to Park and Open Space Plans

The Pennsylvania Supreme Court decision in *Middletown Township v. Lands of Stone*, 931 A.2d 331 (Pa. 2007) suggests that an official map could add critical credibility to comprehensive plans, including recreation and greenway plans. In the face of a subdivision plan submission for a farm, the township Board of Supervisors determined that it wished to acquire the farm for parkland. The farm had been denoted in the township's 1991 recreation, parks, and open space plan as desirable for acquisition. The township did not, however, create an official map, but rather relied only upon the "Recreation, Parks, and Open Space Plan" component of its comprehensive plan.

Apparently unable to negotiate a purchase, the township filed a declaration of taking, stating that it was acquiring the farm "for recreation and open space purposes." The landowner filed preliminary objections to the declaration of taking, arguing that the primary purpose of the township's condemnation of his land was not to create parkland, but rather to prevent development and to preserve the agricultural use of the farm.

First, the Pennsylvania Supreme Court confirmed that townships of the second class (and hence any municipality) do have authorization to condemn private property for purposes of parkland:

"The township code gives power to second class townships to condemn land for recreational purposes."

Secondly, however, the Supreme Court concluded that the primary purpose of the declaration of taking was not to acquire parkland, but rather to preserve the open space/agricultural use of the tract of land at issue—essentially to prevent development of the property. In evaluating the evidence of the township's primary purpose, the Court fashioned the following test to determine whether the primary purpose was for parkland/recreational purposes or, to the contrary, to prevent development of the property:



“Precedent demonstrates that condemnations have been consistently upheld when the taking is orchestrated according to a carefully developed plan which effectuates the stated purpose. Anything less would make an empty shell of our public use requirements [for the use of eminent domain].”

Consequently, the declaration of taking was dismissed, preventing the township from acquiring the property through eminent domain.

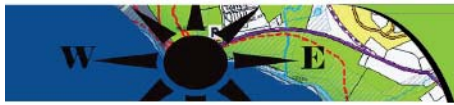
The result may have been different—with the Pennsylvania Supreme Court sustaining the declaration of taking—had Middletown Township taken the next logical step in its effort to preserve this land by adopting an official map and designating the farm thereon as a candidate for future acquisition for parkland. In short, the fact that the township’s declaration of taking was reactive (to the subdivision plan application), rather than proactive (pursuant to an official map designation) likely made all the difference.

In addition, the township would have had a full year to deal with the decision of whether or not to acquire the farm, without having to pay any additional compensation to the landowner over and above the land value prior to submission of a subdivision plan. During the one-year period, the township would certainly have had ample time to explore further with the landowner the potential for a purchase agreement, rather than the use of eminent domain, where the ultimate purchase price is out of control of the municipality, and in control of the Board of View or a reviewing court upon appeal. Clearly the use of either eminent domain or the official map as tools for acquisition of open space or recreational use should be reviewed by the municipal solicitor based on the applicable case law.

B. Coordination of the Official Map with Other Ordinances

Municipalities may achieve substantially improved land development outcomes by adopting an official map in conjunction with and in support of other municipal land use ordinances. In addition, many municipalities have found that failure to reference the official map in other municipal ordinances may make it difficult to enforce over the long term, as municipal staff change and familiarity with the official map ordinance may be lost. Therefore, municipalities should be sure to at least cross-reference the official map ordinance in

Failure to reference the official map in other municipal ordinances may make it difficult to enforce over the long term



other land use planning ordinances (i.e., zoning and subdivision and land development ordinances), but may also find ways to structure these other ordinances in a way to complement the official map ordinance. Such approaches are described below.

Zoning Ordinances

If the municipality wishes to acquire ownership of or easements in private land without using tax dollars, coordination of the official map with zoning ordinance provisions is critical. This is accomplished by first clearly referencing consistency with the official map in the zoning ordinance, most commonly in the supplemental regulations portion as opposed to phrasing in each individual zoning district. Also, corridors identified on the official map for widening or similar improvements can have wider setbacks in the zoning ordinance. Lastly, densities allowed in areas that feed an already congested corridor as identified in the comprehensive plan can be reduced to lessen the impact of future development.



Official Map of Hellam Township, York County

Another means of achieving the goals in the comprehensive plan and official map may involve setting forth provisions in the municipal zoning ordinance for subdivision that allow the same overall quantity of development—if not more—on a property, if the developer sets aside a portion of the property for open space, rather than developing the entire property. Municipalities

may use cluster zoning, planned residential development, conservation by design, or other ordinance provisions for this purpose, but the key is to encourage the developer (carrots, sticks or a combination of carrots and sticks) to conform their development plans to the municipal intentions expressed on the official map. By simply giving the developer the flexibility to increase the density of development on a portion of the site in exchange for not developing the portion indicated on the official map, the municipality may avoid the cost of having to purchase the reserved land from the developer.

While the zoning ordinance provisions may require open space set-asides, they may not mandate that the open space be conveyed to the municipality or be open to the general public.



However, this is not much of an obstacle, because in practice, developers usually are willing to convey all or a portion of the open space to the municipality for a public park or are willing to allow public access to at least a portion of the open space, particularly if the residential lots are buffered from the public access areas by Homeowner Association-owned open space. The developer may be enthusiastic rather than resistant to conveying the open space to the municipality if the parkland is intended for “passive” uses such as walking and wildlife watching, rather than hosting ball fields, night lighting, and other activities.

Subdivision and Land Development Ordinance (SALDO)

There are two major components of a municipal SALDO that can be tailored to coordinate with official mapping.

The SALDO may require that the subdivision or land development incorporate all of the features shown on the official map. That may include, for example, connecting the internal street system to other road stubs in adjacent subdivisions. The ordinance may not require the developer to convey the lands reserved on the official map to the municipality, but the ordinance may allow the municipality to refuse municipal ownership of (and maintenance obligations for) streets, stormwater controls, and other infrastructure associated with a development if the infrastructure does not conform to the official map.



Official Map Implementation of Loganville Bypass -
Springfield Township, York County

Secondly, Section 503(11) of the MPC makes a specific authorization for municipalities in their SALDO to require:

“the public dedication of land suitable for the use intended; and, upon agreement with the applicant or developer, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of the land, or a combination, for park or recreation purposes as a condition precedent to final plan approval...”

The official map may specify the location of the parkland or other public grounds on the property to be developed, and the public dedication ordinance may specify the quantity of land that the developer is to convey to the municipality as part of the development. See [Public Dedication of Land and Fees-in-Lieu for Parks and Recreation](#) to review the constraints on what the municipality can demand of the developer and other options available.

Floodplain Management and Stormwater Controls

Areas for flood control basins, floodways and floodplains, stormwater management areas, and drainage easements can be shown on an official map. Whether the municipality has separate ordinances for stormwater management and/or floodplain control (or whether the same are included within the zoning and SALDO ordinances), provisions requiring any development of land within the municipality to adhere to the provisions of the official map dealing with flood control, floodplains, and stormwater management is advisable. It is unlikely that the municipality will have to pay the developer substantial dollars for this type of acquisition (most likely by easement, rather than fee).

If, for example, a municipality is required under the MS4 program regulated by EPA to acquire additional land for purposes of stormwater management and flood control (i.e., land not within a subdivision pending approval), the municipality may wish to use the official mapping technique to reserve the land for this purpose and move more slowly toward actual acquisition for purposes of constructing stormwater management facilities.

Reserving land for future public use on an official map does not affect the property's ownership.

C. One Year to Act on a Reservation

Reserving land for future public use on an official map does not affect the property's ownership. Landowners still own and control their land. However, the owners are constrained in building on, subdividing or otherwise developing the reserved land until (1) they receive a special encroachment permit, or (2) they provide written notice of intent to develop and then allow the municipality up to a year to acquire the land, or an easement on the land, from them. The MPC does not clearly define the term "written notice," so municipalities should attempt to clarify this term within the body of their

municipal ordinance. If the municipality does not acquire the property interest within a year's time, the official map reservation lapses and the owner may continue with the approval process for the proposed development.

There are three likely situations that would start the clock on the municipality's one-year time limit:

- landowner notice of an intention to subdivide the subject property;
- notice of intent to develop a property under circumstances where a land development plan would first have to be approved (essentially every type of development other than a single family residence) by the municipality; or
- the owner does not have to obtain either subdivision or land development approval, and applies directly for a building permit.

Within the one-year time limit, several outcomes are possible, including:

- municipality approves the development proposal conditioned on the purpose of the official map designation being accomplished (e.g., landowner donates a trail easement to the municipality);
- municipality and landowner negotiate the municipality's acquisition of an easement or the property in fee on either the entire reserved property or a portion of the land;
- negotiations fail and the municipality decides to let the official map reservation lapse;
- as part of a successful negotiation, the municipality proceeds with a friendly condemnation of the reserved land—a helpful approach when the title to the land has problems or when the negotiated price is likely more than fair market value; or
- negotiations fail and the municipality chooses to use its power of eminent domain. This outcome is rare.

D. Negotiating a Resolution

Voluntary compliance with the intentions expressed by an official map can almost always be procured when both parties act responsibly and respectfully, as both parties have a considerable stake in a timely and positive outcome from the process. Further, most applicants tend to favor community support, rather than dissent. The power of condemnation is the ultimate tool backing implementation of the official map, but should only be used when all else fails. As long as the official map was properly created and approved by the community, that

same community should support the judicious use of condemnation when an applicant is unwilling to cooperate in the common interest.

Property owners in general, and developers in particular, will normally choose the “easy way” to get a subdivision or land development plan approved, rather than doing battle with the municipality. This inclination will be reinforced if the municipality is respectful in its approach and careful to clearly publicize the existence and importance of its official map. When a municipality’s intentions are well known, most potential developers will recognize that to submit a subdivision or land development plan contrary to the reservations of the municipal official map will create an adversarial situation. Of course, if an entire tract is shown for parkland acquisition, then any type of subdivision or development likely will create an adversarial situation. But in many instances, something less than the entire property will be designated for public acquisition or control on an official map, thus giving a “road map” to a developer as to which portions of the tract can be developed and which portions of the tract should be reserved for a cooperative arrangement with the municipality.

For example, suppose a municipality has designated trail connections on the official map in order to build a comprehensive trail system in the municipality. A developer might accommodate a trail easement within a subdivision or land development plan with relative ease, thus making the township leaders happy and paving the way for an amicable review of the subdivision plan itself. Further, the municipality in this situation may end up with the trail easement donated as a condition of subdivision approval. Thus, tax dollars are preserved, the trail segment is secured, and the purposes of the official map have been implemented.

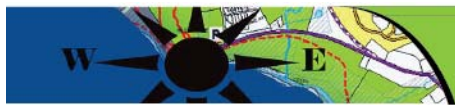
The official map is a flexible tool that allows the municipality and the owner of land reserved on the official map the ability to negotiate a mutually acceptable final product. Used in conjunction with zoning and subdivision and land development ordinances, the official map provides

Voluntary compliance with the intentions expressed by an official map can almost always be procured when both parties act responsibly and respectfully

municipal officials with greater flexibility and negotiation power in the land development process. The official map would be insufficient on its own for effective planning; but in combination with good standard ordinances it can greatly improve a municipality’s land use planning and development.



6. APPENDIX A: Inventory of Pennsylvania Official Maps December 2010



Inventory of Pennsylvania Official Maps (as of December 2010)

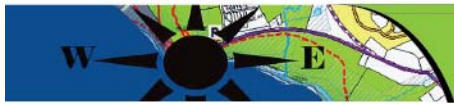
Municipality <i>Click link to access map</i>	Date Adopted/ Last Amended	Map Features										
		Entire Municipality	Partial Municipality	New Roadway	Roadway widening	Intersection Improvement	Bicycle or Pedestrian Trails	Conservation Easements	Public Park	Greenway	Municipal Building/Property	Other
Allegheny County												
Moon Township												
Berks County												
Exeter Township	2005	●		●		●	●					
Sinking Spring Borough	2008		●	●								
Upper Bern Township		●		●				●		●	●	
Bucks County												
Lower Makefield Township	1990/1997											
Butler County												
Cranberry Township	2000/2007		●		●							
Centre County												
College Township	1985/2006/2009	●		●			●	●	●			
Ferguson Township	1990/2008	●		●	●		●	●	●			
Harris Township	2008	●		●			●		●			
Millheim Borough	2009	●		●								
Chester County												
Birmingham Township	2002	●			●			●				
Charleston Township	2003/2007	●		●				●			●	
East Bradford Township	2006/2008/2010	●					●	●	●			
East Caln Township	1993	●						●	●			
Elk Township	2007	●		●			●	●			●	
Honey Brook Township	2009		●	●			●	●	●			●
Kennett Township	2002/2006		●	●								
London Britain Township	1998		●				●					●
Londonderry Township	2008		●	●		●						



Municipality <i>Click link to access map</i>	Date Adopted/ Last Amended	Map Features										
		Entire Municipality	Partial Municipality	New Roadway	Roadway widening	Intersection Improvement	Bicycle or Pedestrian Trails	Conservation Easements	Public Park	Greenway	Municipal Building/Property	Other
Thornbury Township	1996/2000	●		●			●	●	●			
Upper Uwchlan Township	12/21/1998		●	●	●	●						
Uwchlan Township	10/22/2009	●		●	●		●		●			
West Bradford Township	2003/2007	●		●					●	●		
West Vincent Township	1998		●	●								
West Whiteland Township	2000	●		●			●	●		●	●	
Willistown Township	2004	●					●	●	●			
Cumberland County												
Lower Allen Township	1985/2009	●		●			●					
South Middleton Township	2000				●	●			●		●	●
Erie County												
Fairview Township	1997/1998		●	●								
Millcreek Township	1995	●		●		●						
Summit Township	1995/2010			●								
Lackawanna County												
Clifton Township	2007	●			●	●					●	
Lancaster County												
Columbia Borough	2003											
East Earl Township	2009	●		●		●	●		●	●		
Elizabethtown Borough	2001/2010	●		●	●	●	●		●			
Lititz Borough	2001/2009											
Manor Township	1999	●		●	●		●	●				
Mount Joy Township	2010	●		●		●	●		●			
Strasburg Borough	2002	●		●								
Strasburg Township	1998	●		●								
Warwick Township	2009	●		●			●					
West Donegal Township	1991/2002/2010	●		●		●	●					



Municipality <i>Click link to access map</i>	Date Adopted/ Last Amended	Map Features										
		Entire Municipality	Partial Municipality	New Roadway	Roadway widening	Intersection Improvement	Bicycle or Pedestrian Trails	Conservation Easements	Public Park	Greenway	Municipal Building/Property	Other
Lehigh County												
Lehigh County	2007		•	•								
Catasauqua Borough	2007	•		•								
South Whitehall Township												
Whitehall Township	1998	•		•								
Upper Milford Township	2010			•	•	•	•	•	•			•
Upper Saucon Township	2010	•		•			•	•	•	•		•
Monroe County												
Chestnuthill Township	2004/2006			•	•	•		•	•			
Mount Pocono Borough	2008	•							•		•	
Tunkhannock Township	09/29/2008			•		•		•				
Montgomery County												
Montgomery Township												
Upper Hanover Township	2008	•		•		•	•					
Upper Providence Township	2008											
Northampton County												
Allen Township	2000/2007											
Bushkill Township	2005						•		•	•		
East Allen Township	2009			•			•				•	
Hanover Township												
Moore Township												
York County												
Carroll Township	2009		•	•								
Hellam Township	2003			•	•	•		•				•
Lower Windsor Township	2003/2006			•	•	•		•	•			
North Codorus Township	2001/2006											



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Municipality <i>Click link to access map</i>	Date Adopted/ Last Amended	Map Features										
		Entire Municipality	Partial Municipality	New Roadway	Roadway widening	Intersection Improvement	Bicycle or Pedestrian Trails	Conservation Easements	Public Park	Greenway	Municipal Building/Property	Other
Shrewsbury Township	2004	●		●	●	●			●	●		
Springfield Township	1996	●		●						●		



7. APPENDIX B: Municipalities Planning Code Article IV, Official Map December 2010

Section 401. Grant of Power.

- (a) The governing body of each municipality shall have the power to make or cause to be made an official map of all or a portion of the municipality which may show appropriate elements or portions of elements of the comprehensive plan adopted pursuant to section 302 with regard to public lands and facilities, and which may include, but need not be limited to:
- (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.
- (b) For the purposes of taking action under this section, the governing body 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.



Section 402. Adoption of the Official Map and Amendments Thereto.

- (a) Prior to the adoption of the official map or part thereof, or any amendments to the official map, the governing body 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 governing body. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its recommendations.
- (b) The county and adjacent municipalities may offer comments and recommendations during said 45-day review period in accordance with section 408. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the governing body 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 governing body shall hold a public hearing pursuant to public notice.
- (c) Following adoption of the ordinance and official map, or part thereof or amendment thereto, a copy of same, verified by the governing body, shall be submitted to the recorder of deeds of the county in which the municipality is located 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 municipality enacting the ordinance or amendment and shall be in the amount prescribed by law for the recording of ordinances by the recorder of deeds.

Section 403. Effect of Approved Plats 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 on final, recorded plats which have been approved as provided by this act shall be deemed amendments to the official map. Notwithstanding any of the other terms of this article, 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 this act.

Section 404. Effect of Official Map on Mapped Streets, Watercourses and Public Grounds. The adoption of any street, street lines or other public lands pursuant to this article 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 municipality 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 municipality.

Section 405. Buildings in Mapped Streets, Watercourses or Other Public Grounds. For the purpose of preserving the integrity of the official map of the municipality, 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 governing body for the grant of a special encroachment permit to build. Before granting any special encroachment permit authorized in this section, the governing body may submit the application for a special encroachment permit to the local planning agency and allow the planning agency 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 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 limitation, as is provided in Article IX.

Section 406. Time Limitations on Reservations for Future Taking. The governing body 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 governing body 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 governing body shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

Section 407. Release of Damage Claims or Compensation. The governing body 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 governing body from claims by others may be required.

Any releases or agreements, when properly executed by the governing body and the owner and recorded, shall be binding upon any successor in title.

Section 408. Notice to Other Municipalities.

- (a) When any county has adopted an official map in accordance with the terms of this article, a certified copy of the map and the ordinances adopting it shall be sent to every municipality within said county. All amendments shall be sent to the aforementioned municipalities. The powers of the governing bodies of counties to adopt, amend and repeal official maps shall be limited to land and watercourses in those municipalities wholly or partly within the county which have no official map in effect at the time an official map is introduced before the governing body of the county, and until the municipal official map is in effect. The adoption of an official map by any municipality, other than a county, whose land or watercourses are subject to county official mapping, shall act as a repeal protanto of the county official map within the municipality adopting such ordinance. Notwithstanding any of the other terms or conditions of this section the county official map shall govern as to county streets and public grounds, facilities and improvements, even though such streets or public grounds, facilities and improvements are located in a municipality which has adopted an official map.



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- (b) When a municipality 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 county planning agency, or if no such agency exists to the governing body of the county at the same time it is submitted for review to the municipal planning agency. The comments of the county planning agency shall be made to the governing body of the municipality within 45 days, and the proposed action shall not be taken until such comments are received. If, however, the planning agency fails to act within 45 days, the governing body may proceed without its comments.
- (c) Additionally, if any municipality 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 agency of the adjacent municipality. The comments of the adjacent municipality shall be made to the governing body of the municipality proposing the adoption 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 governing body of the proposing municipality may proceed without its comments. When a municipality adopts an official map, a certified copy of the map, the ordinance adopting it and any later amendments shall be forwarded, within 30 days after adoption, to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located. Additionally, if any municipality 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.

