

**The Official Map and Ordinance of**

# **ELK TOWNSHIP**

Chester County, Pennsylvania

August 2007

**Prepared By:**  
**Elk Township Official Map and Ordinance Taskforce**

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## ***Preparation and Funding***

This Ordinance was prepared by the Elk Township Official Map and Ordinance Taskforce with technical assistance provided by the Chester County Planning Commission. Funding was provided, in part, through a grant from the Vision Partnership Program sponsored by the Chester County Board of Commissioners. The Ordinance has been prepared in conjunction with the principles of the County's policy plan, Landscapes, as a means of achieving greater consistency between local and county planning programs.

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**SECTION 100. GENERAL PROVISIONS.**

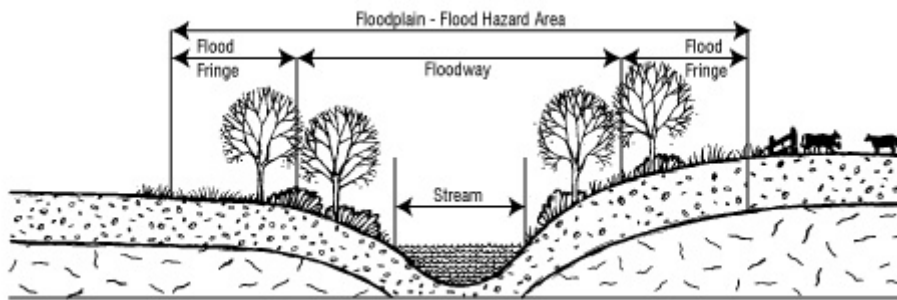
- A. **Short Title.** This Ordinance shall be known, and may be cited, as the Elk Township Official Map Ordinance of 2007.
- B. **Authority.** The Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Pennsylvania Municipalities Planning Code, Act 247 of 1968, as reenacted and amended.
- C. **Purpose.** This Ordinance is enacted for the following purposes:
1. To serve and promote the public health, safety, and general welfare of the residents of Elk Township;
  2. To facilitate adequate provision of public streets within Lewisville Village in keeping with the character of the historic uses and layout;
  3. To provide for the recreational and open space needs of the community;
  4. To provide adequate area for future municipal facilities; and,
  5. To identify and protect primary natural resource areas and lands under easement.
- D. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of any other section or provision of the Ordinance than one so declared.

**SECTION 200. LANGUAGE INTERPRETATIONS AND DEFINITIONS.**

- A. The following words and phrases shall be construed throughout this Ordinance to have the meaning indicated in this Section. The present tense includes the future; the singular number includes the plural, and the plural the singular, except where the quantity stated is a part of the regulation; the masculine gender includes the feminine and neuter.
- B. The word “includes” or “including” shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of like kind and character.
- C. The word “person” includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- D. The word (shall) and “must” are mandatory, the words “may” and “should” are permissive.
- E. The words “used” and “occupied” included the words “intended, designed, maintained, or arranged to be used or occupied.”
- F. **Definitions.** Unless a contrary intention clearly appears, the following words and phrases shall have the meaning given in this section. All words and terms not defined herein shall be used with a meaning of standard usage.

1. ACT 247 - The "Pennsylvania Municipalities Planning Code", Act 247 of 1968, as amended, 53 P.S. §§ 10101 et seq.
2. BOARD – See BOARD OF SUPERVISORS.
3. BOARD OF SUPERVISORS - Board of Supervisors of Elk Township, Chester County, Pennsylvania.
4. BUILDING – A structure which has enclosing walls and a roof, including mobile homes.
5. COUNTY – The County of Chester, Commonwealth of Pennsylvania.
6. FLOODPLAIN - A floodplain is defined as:
  - a. A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; and/or
  - b. An area subject to the unusual and rapid accumulation of runoff of surface waters from any source. Please refer to Figure 1.

**Figure 1**  
**Floodplain**



Source: Chester County Planning Commission. 2002.

1. MUNICIPAL; MUNICIPALITY – Elk Township, Chester County, Pennsylvania.
2. PLANNING COMMISSION – The Planning Commission of Elk Township, Chester County, Pennsylvania.
3. PRIMARY NATURAL RESOURCE/AREA – Lands containing floodplains (stream corridors), wetlands, and prohibitive slopes.
4. PUBLIC – Owned, operated, or controlled by a government agency.
5. PUBLIC NOTICE - Notice published in any newspaper of general circulation in Elk Township, once each week for two (2) successive weeks, the first not more than thirty (30) days and the second not less than seven (7) days, prior to any public hearing required by this Ordinance; such notice shall give time and place, and the nature of the matter to be considered.

6. RIGHT-OF-WAY (ROW) - Land reserved for an easement, street, crosswalk or other public purpose.
12. SLOPES, PRECAUTIONARY - Those areas of land where the grade is fifteen (15) percent to twenty-five (25) percent.
13. SLOPES, PROHIBITIVE - Those areas of land where the grade is twenty-five (25%) percent or greater.
14. STREET - A way, intended for general public use, to provide means of approach for vehicles and pedestrians. The word "street" includes the words "road," "highway," "thoroughfare," and "way".
15. TOWNSHIP – The Township of Elk, Chester County, Pennsylvania.
16. TRAIL - A right-of-way containing a marked or beaten path, whether paved or unpaved, for pedestrians, equestrian, or bicycle use.
17. WATERCOURSE – A permanent or intermittent stream or other body of water, whether natural or man-made, which gathers or carries surface water.
18. WETLANDS - Land areas that are inundated or saturated by surface or groundwater with a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (wetlands generally include swamps, marshes, bogs, and similar areas); or areas that are defined and delineated in accordance with the Federal Manual for Identifying and Delineating wetlands, dated January 10, 1989, and as may be amended from time to time; or as further defined and delineated by the United States Army Corps of Engineers, the United States Environmental Protection Agency, or the Pennsylvania Department of Environmental Protection.

## **SECTION 300. ESTABLISHMENT OF CONTROLS.**

- A. **Provisions of the Official Map.** The Official Map, as enacted, and subsequently amended, shall identify the layout of existing and proposed public streets in Lewisville Village, existing and proposed trail corridors and trail heads, existing and proposed municipal facilities and/or grounds, lands under agricultural easement or other protected lands, and proposed land for preservation, and primary natural resource areas.
  1. For the purpose of initially reserving land on the Official Map, property records, aerial photography, photogrammetric mapping or other method sufficient for the identification, description and publication of areas for reservation on the Official Map will be sufficient. For the acquisition of lands and easements, boundary descriptions by meets and bounds shall be made and sealed by a professional surveyor, licensed in Pennsylvania.
  2. The Board, by amending ordinances, may make additions or modifications to the Official Map or part(s) thereof by following the provisions in Section A.1. above and may also vacate any proposed public streets in Lewisville Village, proposed trail corridors and/or trail heads, proposed municipal facilities and/or grounds, or proposed land for preservation contained on the Official Map, or part(s) thereof.

3. Unless otherwise specified, all proposed public street rights-of-way shall meet the width requirements specified in the Elk Township Subdivision and Land Development Ordinance Regulations for the street classification so designated.
  4. Unless otherwise specified, all proposed trails shall meet the requirements specified in the Elk Township Subdivision and Land Development Ordinance or the most current recommendations of the Chester County Parks and Recreation Department, at the discretion of the Township Planning Commission.
- B. **Incorporation of the Official Map.** The Official Map, including all notations, references, and other data shown thereon, is hereby incorporated by reference into this Ordinance as if it were fully described herein.
1. Certification of the Official Map. The Official Map shall be identified by the signatures of the Board, attested by the Township Secretary, under the following words: “This is to certify that this is the Official Map of Elk Township, Chester County, Pennsylvania,” together with the date of enactment of the Ordinance. The Map shall be kept on file with the Township Secretary.
  2. The Official Map and Official Map Ordinance have been adopted pursuant to the provisions in Section 402 of Act 247. A copy of the Official Map and Ordinance of Elk Township, Chester County, Pennsylvania is recorded in the Office of Chester County Recorder of Deeds.
  3. Changes in the Official Map. If, in accordance with the provisions of this Ordinance, changes are made to the location of lines designating existing or proposed public streets, existing and proposed municipal facilities, trails or trailheads, such changes shall be entered promptly on said Map. All changes, except those resulting from subdivision and land development plans as specified in Section 500.B. below, shall be certified by initialing of the Map by the Chairman of the Board together with the amending ordinance number and date of enactment.
- C. **Relationship with County Official Map.** The adoption of an Official Map by the County shall not affect the Official Map of Elk Township, except that the County Map shall govern as to County bridges and public grounds, facilities and improvements of the County in accordance with Act 247.
- D. **Relationship With Adjacent Municipalities.** If the Official Map, or amendment thereto, shows any street or trail intended to lead into any adjacent municipality, a certified copy of the Official Map, or amendment thereto, shall be forwarded to such adjacent municipality.

#### SECTION 400. EFFECTS OF CONTROLS.

- A. **Time Limitations on Reservations for Future Taking.** The Board may fix the time for which streets, trails, trailheads, municipal grounds/facilities or proposed land for preservation on the Official Map shall be deemed reserved for future taking or acquisition for public use. 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 Board 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 Board shall have



acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

1. The adoption of any street, street lines, or other public lands as part of the Official Map shall not, in turn 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.
2. The adoption of the proposed primary natural resource area or public grounds or facilities 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.

- B. **Construction Within Any Mapped Proposed Feature(s).** For the purpose of preserving the integrity of the Official Map of Elk Township, no permit shall be issued for any building within the lines of any street or trail, municipal ground or facility, land proposed for future preservation, within any primary natural resource area 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 or trail, primary natural resource, 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. See Section 400.C. below.
- C. **Special Encroachment Permit.** When the property of which the reserved location forms a part which cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the Board for the grant of a special encroachment permit to so build. Before granting any special encroachment permit authorized in this section, the Board may submit the application for a special encroachment permit to the Township planning commission and allow the planning commission thirty (30) days for review and comment and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard. A refusal by the Board 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 of Act 247, in accordance with Section 600 of this Ordinance.
- D. **Release of Damage Claims or Compensation.** The Board may designate any of its agencies to negotiate with the owner of land whereon reservations are made, releases of claims for damages or compensation for such reservations are required, or agreements indemnifying the Board from such claims by others may be required. Any releases or agreements when properly executed by the Board and the owner, and recorded, shall be binding upon any successor in title.

## **SECTION 500. ADOPTION AND AMENDMENT.**

### **A. Procedure.**

1. Prior to the adoption of the Official Map and Ordinance or part thereof, or any amendments to the Official Map and Ordinance, the Board shall refer the proposed Official Map and Ordinance, or part thereto, with an accompanying ordinance describing the proposed map, to the Planning Commission for review. The planning commissions shall report their recommendations on said proposed Official Map and Ordinance, part thereof, or amendment thereto within forty-five (45) days unless an extension of time shall be agreed to by the Board. If, however, the planning agency fails to act within forty-five (45) days, the Board may proceed without its recommendation.

2. The County and adjacent municipalities may offer comments and recommendations during the said forty-five (45) day review period in accordance with Section 408 of Act 247. Local authorities, park boards, open space committee, environmental boards and similar public bodies may also offer comments and recommendations to the Board or planning agency if requested by same during the forty-five (45) day review period. Before voting on the enactment of the proposed Ordinance and Official Map, or part thereof or amendment thereto, the Board shall hold a public hearing pursuant to public notice.
  3. Following adoption of the Official Map and Ordinance, or part or amendment thereto, a copy of same, verified by the Board, shall be submitted to the recorder of Deeds of Chester County and shall be recorded within sixty (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.
- B. **Effect of Approved Plans on Official Map.** After adoption of the Official Map and Ordinance, or part thereof, all streets, trails, trailheads, and the elements listed in Section 401 of the PaMPC 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 has been approved as provided by Act 247.

## **SECTION 600. VIOLATIONS, PENALTIES, AND APPEALS.**

- A. Whenever any person, partnership, or corporation shall have violated the terms of this Ordinance, the Board shall cause a written notice to be served upon the owner, applicant, developer, property manager, or other person responsible for the property or the violation, directing him to comply with all the terms of this Ordinance within seven (7) days, or such additional period, not to exceed thirty (30) days, as the Board deem reasonable, and further the Board shall give notice to the owner, applicant, developer, property manager or other person responsible for the property of the violation that if the violation is not corrected, the municipality may correct the same and charge the owner, applicant, developer, property manager or other person responsible the cost thereof plus penalties as specified herein for failure to comply. Such notice may be delivered by the following means:
1. United States Post Office (first class, postage prepaid) or by certified or registered mail; or
  2. If the property is occupied, by posting notice at a conspicuous place upon the affected property.
- B. **Penalties for Failure to Comply.** Any person or partnership or corporation who fails to comply with this Ordinance within the period stated in the notice of the Board shall, upon conviction thereof, be guilty of a summary offense and shall be sentenced to pay a penalty of not more than three hundred dollars (\$300.00). Each and every day of continued violation shall constitute a separate violation.

1. In the event that the owner, applicant, developer, property manager, or other person responsible for the property fails to comply with the terms of this Ordinance within the time specified by the Board, the municipality may take actions necessary to correct the violation. The costs of correction of any violation shall be in addition to any penalties for violations for failure to comply.
  2. In addition to the fines for violations, costs, and penalties provided for by this Section, the municipality may institute proceedings in Courts of Equity to prevent, restrain, correct, or abate such building, structure or land, or to prevent, in or about such premises, and act, conduct, business or use constituting a violation.
  3. The cost for removal, fines, and penalties hereinabove mentioned may be entered by the municipality as a lien against such property in accordance with existing provisions of law or may be collected by action in assumpsit.
- C. **Appeals.** Any appeal from a decision or action of the Board or of any officer or agency of the Township in matters pertaining to this Ordinance shall be made in the same manner and within the same time limitation as is provided for zoning appeals in Article X of Act 247.



ORDINANCE No. \_\_\_\_, 2006

## **Elk Township Official Map Ordinance**

AN ORDINANCE PROVIDING, REGULATING, AND DETERMINING: THE LAYOUT OF LAND FOR PUBLIC STREETS WITHIN LEWISVILLE VILLAGE, TRAILS AND TRAILHEADS, MUNICIPAL FACILITIES AND/OR GROUNDS; PRESERVED LAND OR LANDS UNDER EASEMENT, THE RESTRICTION OF BUILDING WITHIN PRIMARY NATURAL RESOURCE AREAS; AND PROVIDING FOR THE ADOPTION, AMENDMENT, AND ENFORCEMENT OF THIS ORDINANCE.

WHEREAS, Article IV of Act 247, empowers the Township to enact an official map and ordinance and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Board of Supervisors (Board), deems it necessary, for the purpose of promoting the health, safety, and welfare of the Township to enact such a map and ordinance; and

WHEREAS, the Board, pursuant to the provisions of Article II of Act 247, has appointed a Planning Commission to plan for the future development of the Township; and

WHEREAS, the Planning Commission has assessed present problems and future desires relating to park and open space needs, trails and associated facilities, and sites for municipal facilities; and

WHEREAS, the Planning Commission has prepared and recommended to the Board an Official Map and Ordinance, consisting of text and map, to reserve land for these needs and the identify primary resource areas and lands under easement; and

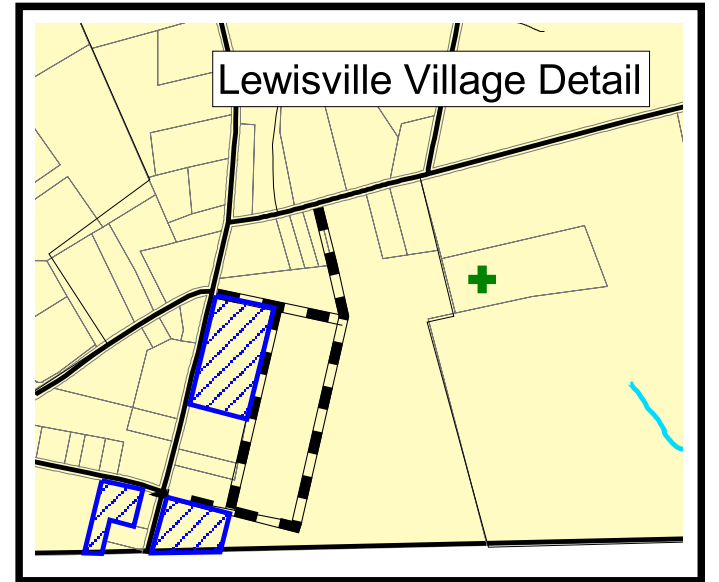
WHEREAS, the Board has given due public notice of hearings on the proposed Ordinance and has held such public hearings; and

WHEREAS, all requirements of Article IV of Act 247, have been met with regard to the preparation of the report of the Planning Commission and subsequent action of the Board.

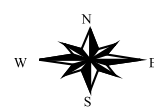
NOW, THEREFORE BE IT ORDAINED, by the Board of the Township of Elk, Chester County, Pennsylvania, as follows:



Municipal Border, Roadways, Parcels - Chester County Bureau of Land Records, 2007;  
Waterways - Aerial Data Reduction Associated Inc. provided through sublicense agreement to the County of Chester, 1994;  
Wetlands - National Wetlands Inventory (MWI) digital files, US Fish and Wildlife Service, 1996;  
Floodway, Floodplain - FEMA, 2006;  
Ponds & Lakes - Aerial Data Reduction Associated Inc. provided through sublicense agreement to the County of Chester, 1994;  
Protected Lands - Chester County Planning Commission, 2005.



## Elk Township, Chester County, Pennsylvania



This map was digitally compiled for internal maintenance and developmental use by the County of Chester, Pennsylvania to provide an index to parcels and for other reference purposes. Parcel lines do not represent actual field surveys of premises. County of Chester, Pennsylvania makes no claims as to the completeness, accuracy or content of any data contained herein, and makes no representation of any kind, including, but not limited to, the warranties of merchantability or fitness for a particular use, nor are any such warranties to be implied or inferred, with respect to the information or data furnished herein.

August 2007






**EXISTING FEATURES**

- Roads
- Trail Corridor
- Cemetery
- Elk Twp. Building
- Protected Lands
- Primary Natural Resource Areas

**PROPOSED FEATURES**

- Parcels
- Trail Head

## PROPOSED FEATURES

-  Potential Public Street Pattern
-  Potential Trail Corridor
-  Potential Trail Head
-  Potential Mun. Grounds/Facility
-  Potential Area for Protection

[illegible]