

**BEFORE THE BOROUGH COUNCIL OF THE BOROUGH OF EMMAUS
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1254

AN ORDINANCE OF THE BOROUGH OF EMMAUS, LEHIGH COUNTY, PENNSYLVANIA, AMENDING THE MUNICIPAL CODE OF ORDINANCES OF THE BOROUGH OF EMMAUS TO CREATE A NEW CHAPTER 28 ENTITLED OFFICIAL MAP; ESTABLISHING AND ADOPTING AN OFFICIAL MAP OF THE WHOLE BOROUGH OF EMMAUS PURSUANT TO THE MUNICIPALITIES PLANNING CODE OF THE COMMONWEALTH OF PENNSYLVANIA; SEVERABILITY; REPEALER; EFFECTIVE DATE

WHEREAS, the Borough of Emmaus is a borough of the Commonwealth of Pennsylvania; and

WHEREAS, Article IV of the Pennsylvania Municipalities Planning Code (Act of 1968, P.L.805, No.247 as reenacted and amended), grants municipalities the power to adopt an Official Map for a portion, or all of the Borough, insofar as it is based on an adopted comprehensive plan; and

WHEREAS, the Emmaus Borough Council adopted *the Southwestern Lehigh Multi-Municipal Comprehensive Plan* on November 5, 2018, as the official comprehensive plan of the Borough; and

WHEREAS, the Emmaus Borough Council, adopted *Borough of Emmaus Comprehensive Parks, Recreation, Open Space, Greenways, and Trails Study* on February 7, 2022 as the Plan that incorporates elements of comprehensive park, recreation, and open space planning; community greenway and connectivity planning; trail planning; as well as conceptual planning for specific park facilities within the Borough of Emmaus; and

WHEREAS, the Official Map may include, but is not limited to, existing and proposed public street widenings, narrowings, existing or proposed public parks and open space reservations, and pedestrian ways and easements; and

WHEREAS, the sites shown on the map have been identified for public needs, and are consistent with the *Southwestern Lehigh Multi-Municipal Comprehensive Plan*; and

WHEREAS, the Emmaus Borough Council has reviewed the official map and desire to adopt same as the Official Map of the Borough.

NOW, THEREFORE, be it hereby **ORDAINED** and **ENACTED** that the Council of the Borough of Emmaus hereby amends the Borough of Emmaus Consolidated Code of Ordinances to create Chapter 28: Official Map, with the following provisions:

(A) General Provisions.

1. Short Title. This Ordinance shall be known and may be cited as the "Emmaus Borough Official Map Ordinance."
2. Authority. This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, the Pennsylvania Municipalities Planning Code, Act of 1968, July 31, P.L. 805, as amended, 53 P.S. §10101 et seq.

3. Purpose. This Ordinance is enacted for the purpose of serving and promoting the public health, safety, convenience and general welfare; to facilitate adequate provision of public streets and facilities; to improve traffic circulation; to provide for the recreational and open space needs of the community; to provide pedestrian ways and easements; to protect and enhance water resources; to provide for flood control basins, floodways and floodplains, stormwater management areas and drainage easements; and to facilitate the subdivision of land and the use of land and watercourses.
4. Severability. Should any section or provision of this chapter 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 chapter than the one so declared.

(B) Establishment of Controls.

1. Provisions of the Official Map Ordinance.
 - a. The Official Map, as enacted by this Ordinance, and subsequently amended, may identify, but need not be limited to the location of the following:
 - (1) Existing and proposed public streets, well sites, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closings 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, stormwater management areas and drainage easements; and
 - (6) Support facilities, easements and other properties held by public bodies undertaking the elements described in §301 of the Pennsylvania Municipalities Planning Code.
 - b. At the time of enactment of this Ordinance, all existing surveys designating the exact location of the lines of existing public street rights-of-way, watercourses and public grounds, including surveys prepared by government agencies or incorporated as part of final, recorded, subdivision and land development plans duly approved by the Borough Council shall, by reference, be deemed an attachment to the Official Map for the purpose of so designating the exact location of said existing lines.
 - c. The Borough, by amending ordinances, may make additions or modifications to the Official Map, or part thereof. For the purpose of initially preserving land on the Official Map, property records, aerial photography, photogrammetric mapping, or other methods sufficient for identification, description and

publication of the Official Map shall be sufficient. For the acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor. The Borough may also vacate by ordinance any existing or proposed public street, watercourse or public ground contained in the Official Map, or part thereof.

- d. Unless otherwise specified, all proposed public street rights-of-way and widening of existing public street rights-of-way shall meet the width requirements specified in the Subdivision and Land Development Ordinance, this Ordinance, for the street classifications designated.
2. 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.
3. Certification of the Official Map. The Official Map shall be identified by the signatures of the Borough Council, attested by the Borough Manager, under the following words "This is to certify that this is the Official Map of the Borough of Emmaus referred to in Ordinance 1254 of the Borough of Emmaus, Lehigh County, Pennsylvania," together with the date of enactment of this Ordinance. The Official Map shall be kept on file with the Borough Manager. Following adoption of this Ordinance and Official Map, or any amendment thereof, a copy of the same, verified by the Borough Manager, shall be submitted to the Recorder of Deeds of Lehigh County, and shall be recorded within sixty (60) days of the effective date of this Ordinance or amendment thereof.
4. Changes in Official Map. If, in accordance with the provisions of this Ordinance, changes are made to the location of lines designated existing or proposed public streets, watercourses or public grounds, such changes shall be entered promptly on said Map. All changes, except those resulting from subdivision and land development plans, as specified in Section (D) below, shall be certified by initialing of the Map by the President of Borough Council, together with the amending ordinance number and date of enactment. Following adoption of the Ordinance and Official Map, or any amendment thereof, a copy of the same, verified by the Borough Manager, shall be submitted to the Recorder of Deeds of Lehigh County, and shall be recorded within sixty (60) days of the effective date of the Ordinance or amendment thereof.
5. Relationship with Adjacent Municipalities. If the Official Map, or amendment thereto, shows any streets or public lands intended to lead into any adjacent municipalities, a copy of said Official Map or amendment shall be forwarded to such adjacent municipality. The comments of the adjacent municipality shall be made to the Borough Council of Emmaus Borough within forty-five (45) days of such forwarding, and the proposed action by the Borough Council shall not be taken until such comments are received; provided, however, if the adjacent municipality fails to provide comments within forty-five (45) days, the Borough Council may proceed without the comments of the adjacent municipality. Upon adoption of the Official Map, or any amendment thereof, in which any street or public lands are intended to lead into an adjacent municipality, a certified copy of the Map and ordinance adopting it shall be forwarded within 30 days after adoption to the adjacent municipality.

(C) Effect of Controls.

1. Construction Within Mapped Streets, Watercourses or Public Grounds. For the purpose of preserving the integrity of the Official Map of the Borough, no permit shall be issued for any building within the lines of any street, watercourse or public ground shown or laid out on the Official Map. No person shall recover any damages for the taking for public use of building or improvements constructed within the lines of any street, any watercourse or public 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 Borough Council for the grant of a permit to build. Before granting any permit authorized in this section, the Borough Council may submit the application for a special encroachment permit to the 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 Borough Council 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 the Municipalities Planning Code.
 - a. The Borough Council may fix the time for which streets, watercourses and public grounds on the Official Map shall be deemed preserved for future taking or acquisition for public use.
 - b. The reservation for public grounds shall lapse and become void one (1) year after an owner of such property has submitted a written notice to the Borough Council announcing his intention to build, subdivide or otherwise develop the land covered by the reservation or has made formal application for an official permit to build a structure for private use, unless the Borough Council shall have acquired such property before the end of the year.
 - c. The adoption of any street, street lines or other public lands pursuant to this Ordinance, as part of the Official Map, shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land, nor shall it obligate the Borough to improve or maintain any such street or land. The adoption of proposed water courses or public grounds as part of the Official Map shall not, in and of itself, constitute or be deemed to constitute the taking or acceptance of any land by the Borough.
2. Release of Damage Claims or Compensation. The Borough Council may designate any of its agencies to negotiate with the owner of land under the following circumstances:
 - a. Whereon reservations are made;
 - b. Whereon releases of claims for damages or compensation for such reservation are required;

- c. Whereon agreements indemnifying the Borough Council or the Borough from claims by others may be required; and
- d. Any releases or agreements when properly executed by the Borough Council and the owner and recorded, shall be binding upon any successor in title.

(D) Adoption and Amendment.

1. Procedure.

- a. Prior to the adoption of the Official Map or part thereof, or any amendments to the Official Map, the Borough Council shall refer the proposed Official Map or part thereof, or amendment thereto, with an accompanying ordinance describing the proposed map, to the Planning Commission for review. The Planning Commission shall report its recommendations on said proposed Official Map and accompanying Ordinance, part thereof or amendment thereto, within forty-five (45) days unless an extension of time shall be agreed to by the Borough Council. If, however, the Planning Commission fails to act within forty-five (45) days, the Borough Council may proceed without its recommendations.
- b. The County and adjacent municipalities may offer comments and recommendations during said forty-five-day period in accordance with §408 of the Pennsylvania Municipalities Planning Code. Local authorities, park boards, environmental boards and similar public bodies may also offer comments and recommendations to the Borough Council or Planning Commission if required by same during said 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 Borough Council shall hold a public hearing pursuant to public notice.

2. Amendment by Subdivision Plan. After adoption of the Official Map, or part thereof, all streets, watercourses, and public grounds on final, recorded subdivision and land development plans which have been duly approved by the Borough Council shall be deemed amendments to the Official Map. Notwithstanding any other terms of this Ordinance, no public hearing need be held, or notice given if the amendment of the Official Map is the result of the addition of a plan which has been duly approved by the Borough Council.

(E) Violations, Sanctions and Appeals.

1. Notice of Violation.

- a. Whenever any person, partnership or corporation shall have violated the terms of this Ordinance, the Borough Manager shall cause a written notice to be served upon the owner, applicant, developer, property manager or other person responsible for the property or the violation, directing him to comply with all the terms of this Ordinance within thirty (30) days; and, further, the Manager shall give notice to the owner, applicant, developer, property manager

or other person responsible for the property or the violation that if the violation is not corrected, the Borough may correct the same and charge the landowner or other persons responsible and the cost thereof plus penalties, as specified herein, for failure to comply.

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

2. Sanctions for Failure to Comply.

- a. The failure of any person, partnership, or corporation to comply with this Ordinance within the period stated in the notice by the Manager constitutes a violation with possible sanctions which may be as much as \$500 per day of each violation, plus court costs, including reasonable attorney's fees incurred by the Borough as a result of prosecution of such violation.
- b. Each and every day of continued violation shall constitute a separate violation.
- c. In the event that the owner, developer, occupant, applicant, property manager or other person responsible fails to comply with the terms of this Ordinance within the time specified by the Manager, the Borough may take any actions necessary to correct the violation. The costs for correction of the violation shall be in addition to any penalties for violation for failure to comply.
- d. In addition to the sanctions, costs and penalties provided for by this section, the Borough may institute proceedings in courts of equity to prevent, restrain, correct, or abate such building, structure, or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

3. Appeals. Any appeal from a decision or action of the Borough Council or of any office or agency of the Borough 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 the Pennsylvania Municipalities Planning Code, as amended.

(F) Definitions.

1. Language Interpretations. For the purpose of this Ordinance, certain terms and words used herein shall be interpreted as follows:
 - a. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes singular; words of masculine gender include feminine gender.
 - 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 words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
 - e. The words "used" or "occupied" include the words "intended, designed, maintained or arranged to be used or occupied. maintained or arranged to be used or occupied."
2. 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.

BOROUGH – The Borough of Emmaus, Lehigh County, Commonwealth of Pennsylvania.

BOROUGH COUNCIL – The Borough Council of the Borough of Emmaus, County of Lehigh, Commonwealth of Pennsylvania.

BUILDING – A structure, including any part thereof, having a roof and used for the shelter or enclosure of persons or property.

COUNTY – Lehigh County, Commonwealth of Pennsylvania.

GOVERNING BODY – The Borough Council of the Borough of Emmaus, County of Lehigh, Commonwealth of Pennsylvania.

MUNICIPAL; MUNICIPALITY – The Borough of Emmaus, Lehigh County, Commonwealth of Pennsylvania.

MULTI-MUNICIPAL COMPREHENSIVE PLAN – The official adopted comprehensive plan of Emmaus Borough.

FUTURE MULTIMODAL IMPROVEMENTS – An area designated by the *Borough of Emmaus Comprehensive Parks, Recreation, Open Space, Greenways, and Trails Study* where multimodal transportation improvements and services are desired.

FUTURE LANDS AND FEATURES – Includes:

- a. Parks, open space, greenways, playgrounds, trails, paths and other recreational areas and other public areas;
- b. Sites for municipal wells, treatment facilities, and other publicly owned or operated facilities; and,
- c. Publicly owned or operated scenic and historic sites.

PUBLIC NOTICE – Notice published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than thirty (30) days nor less than seven (7) days from the date of the hearing.

RIGHT-OF-WAY – A corridor of land set aside for use, in whole or in part, by a street or other public purpose.

STREET – A street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrian, whether public or private.

WATERCOURSES – A stream of surface water, including river, stream, creek or run, whether or not intermittent.

BE IT FURTHER ORDAINED that all existing Ordinances of the Borough or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

BE IT FURTHER ORDAINED, that if any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the constitutionality, legality or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal or invalid.

DULY ADOPTED this 15th day of January 2024 by the Emmaus Borough Council in lawful session duly assembled.



Shane Pepe
Borough Manager



Chad Balliet
Council President

AND NOW, this 15th day of January 2024, the above Ordinance is hereby **APPROVED** by the Mayor of the Borough of Emmaus in due course.



Lee Ann Gilbert, Mayor
Borough of Emmaus