

**East Brandywine Township
Ordinance No. 09-2011**

AN ORDINANCE OF THE TOWNSHIP OF EAST BRANDYWINE,
CHESTER COUNTY, PENNSYLVANIA, ESTABLISHING AND ADOPTING
THE OFFICIAL MAP OF EAST BRANDYWINE TOWNSHIP

WHEREAS, Article IV of the Pennsylvania Municipalities Planning Code (Act 170, as amended) empowers the Township to enact an Official Map and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Board of Supervisors deems it necessary, for the purpose of promoting the health, safety, and general welfare of the Township to enact such an ordinance; and

WHEREAS, the East Brandywine Township Planning Commission has assessed present conditions and future needs relating to streets, roads, parking areas, emergency access, non-vehicular transportation, parks, and trails; and

WHEREAS, the Planning Commission has prepared and recommended to the Board of Supervisors an Official Map Ordinance, consisting of text and map, to reserve land for certain of these needs; and

WHEREAS, the Board of Supervisors has given due public notice of the hearing on the proposed ordinance and has held such public hearing; and

WHEREAS, all requirements of Article IV of the Municipalities Planning Code, as amended, have been met with regard to the preparation of the report of the Planning Commission and subsequent action of the Board of Supervisors.

NOW THEREFORE BE IT ORDAINED by the Board of Supervisors of East Brandywine Township, as follows:

- I. The Township hereby adopts as the Official Map of East Brandywine Township the map as attached hereto, dated April 21, 2011.
- II. This ordinance is enacted and ordained under grant of powers by the General Assembly of the Commonwealth of Pennsylvania as contained in the Pennsylvania Municipalities Planning Code, Act 170 of 1988, P.L. No. 170, as amended.

- III. 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 protect and enhance water resources; and to facilitate the subdivision of land and the use of land and water courses.
- IV. The Official Map includes the following locations, sites, and routes, as authorized by Article IV of the Municipalities Planning Code:
 - A. Proposed new street system within Guthriesville Village;
 - B. Proposed public parking areas within Guthriesville Village;
 - C. Proposed Loop Road enabling Rt. 322 bypass of Guthriesville Village, including roundabout at Bondsville Road/Loop Road intersection;
 - D. Proposed alternative routes for a Township emergency access drive connecting to Loop Road;
 - E. Proposed additions to the existing and approved Township trail system; and
 - F. Proposed addition to East Brandywine Community Park.
- V. The properties and routes depicted as proposed for Township ownership shall be reserved for future taking or acquisition for public use in perpetuity until actually acquired by the Township, in accordance with the terms of Article IV of the Municipalities Planning Code.
- VI. No permit shall be issued for any building to be located within any property or route shown on the Official Map, and no building or structure shall be constructed or located within such property or route. Damages shall not be recoverable for the taking for public use of any building or improvements constructed within any such property or route shown on the Official Map, and any such building or improvement shall be removed at the expense of the owner.
- VII. The reservation for public use of any property or route shown on the Official Map shall lapse and become void one year after the owner of such property has:
 - A. submitted a written notice to the Board of Supervisors announcing his intention to build, subdivide, or otherwise develop the land covered by the reservation; or
 - B. made formal application for an official permit to build a structure for private use;unless the Township shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the one-year period.
- VIII. The Township may initiate surveys of property locations for the purpose of taking action to acquire lands or easements pursuant to this Ordinance.

- IX. 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. Whenever lands or easements are to be acquired pursuant to the Official Map, boundary descriptions by metes and bounds description shall be made by a licensed surveyor.
- X. The Board of Supervisors, by amending ordinances, may make additions or modifications to the Official Map or part thereof, and may also vacate any existing or proposed public street, water course, or public ground contained in the Official Map or part thereof.
- XI. The Township directs that upon adoption of the ordinance, a copy of the Official Map, verified by the Board of Supervisors, shall be submitted to the Recorder of Deeds of Chester County to be recorded within sixty (60) days of the effective date thereof.
- XII. Violations, Penalties, and Appeals

A. Causes of Action

Where any building or structure is erected, reconstructed, converted, or maintained, or any building, structure, or land is used in violation of this ordinance, the Board of Supervisors or, with the approval of the Board of Supervisors, the Zoning Officer may in the name of East Brandywine Township institute any appropriate action or proceedings to:

1. Prevent such unlawful activity;
2. Restrain or abate such violation;
3. Prevent the occupancy of such building, structure, or land or prevent any illegal act, conduct, business, or use in or about such premises.

B. Notice of Violations

Where it appears to East Brandywine Township that a violation of any provisions of this ordinance has occurred, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

1. The enforcement notice shall be sent to the owner of record of the property on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that property, and to any other person requested in writing by the owner of record.

2. The enforcement notice shall state the following;
 - a. The name of the owner of record and any other person against whom East Brandywine Township intends to take action.
 - b. The location of the property in violation.
 - c. The specific violation with a description of the requirements that have not been met, citing in each instance the applicable provisions of this ordinance.
 - d. The date before which the steps for compliance must be commenced and the date before which steps must be completed.
 - e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this ordinance.
 - f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

C. Discontinuance

Where the notice of violation is not complied with in the time period set forth in the notice, the Zoning Officer shall order the discontinuance of such unlawful use of building, structure, or land involved in said violation.

D. Enforcement Remedies

Any person who shall violate the provisions of this ordinance shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by East Brandywine Township as a result thereof. If the defendant neither pays nor timely appeals the judgment, East Brandywine Township may enforce the judgment pursuant to applicable rules of civil procedure. Each day a violation continues constitutes a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person violating the ordinance to have believed there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this ordinance shall be paid over to East Brandywine Township.

E. Appeals

Any appeal from a decision or action of the Board of Supervisors or of any officer of East Brandywine Township in matters pertaining to this ordinance shall be made in the same manner and within the same time limitations as is provided for zoning appeals in Articles IX and X-A of the Pennsylvania Municipalities Code, as amended.

- XIII. If any sentence, clause, section or part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
- XIV. All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.
- XV. This Ordinance shall be effective 5 days following adoption, as by law provided.

ENACTED this 16th day of October, 2011.

BOARD OF SUPERVISORS
EAST BRANDYWINE TOWNSHIP

ATTEST:

David A. Kirkner, Chairman

Mary Beth Smedley, Secretary/Treasurer

Jay G. Fischer, Vice-Chairman

TOWNSHIP SEAL

Hudson L. Voltz, Member