

**BOROUGH OF MOUNT POCONO
MONROE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 4 OF 2017

OFFICIAL MAP

**AN ORDINANCE ESTABLISHING, REGULATING AND DETERMINING FOR
LANDS IN THE BOROUGH OF MOUNT POCONO: ADOPTING AN OFFICIAL
MAP FOR RESERVATION OF LAND FOR FUTURE PUBLIC STREETS,
PUBLIC GROUNDS AND CONSERVATION LANDS; THE RESTRICTION OF
BUILDING
WITHIN MAPPED AREAS; THE ACQUISITION BY THE BOROUGH OF
IDENTIFIED LANDS AND EASEMENTS; AND PROVIDING FOR THE
AMENDMENT AND ENFORCEMENT OF THIS ORDINANCE.**

WHEREAS, Article IV of the Pennsylvania Municipalities Planning Code (Act 247), as amended, empowers the Borough of Mount Pocono to enact an official map and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Borough Council deems it necessary, for the purpose of protecting and promoting the public health, safety, and general welfare of the Borough of Mount Pocono to enact such an ordinance; and

WHEREAS, the Borough Council, pursuant to the provisions of Article II of the Pennsylvania Municipalities Planning Code, as amended, has appointed a Planning Commission to plan for the future development of the Borough of Mount Pocono; and

WHEREAS, the Planning Commission has assessed present problems and future desires relating to transportation, park and open space needs, and other public facilities; and

WHEREAS, the Planning Commission has prepared and recommended to the Borough Council an Official Map Ordinance, consisting of a text and map, to reserve land and easements for these needs; and

WHEREAS, the Borough Council 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 the Pennsylvania Municipalities Planning Code, as amended, have been met with regard to the preparation of the report of the Planning Commission and subsequent action of the Borough Council.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Mount Pocono, the County of Monroe, Commonwealth of Pennsylvania, as follows to be added to the Code of the Borough of Mount Pocono as Chapter 140:

Chapter 140
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ARTICLE I
General Provisions

§140-1. Short Title

This Chapter shall be known and may be cited as the *Official Map Ordinance of the Borough of Mount Pocono*.

§140-2. Authority

This Chapter is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, contained in *The Pennsylvania Municipalities Planning Code*, Act of 1968, PL. 805, No. 247 as reenacted and amended.

§140-3. Purpose and Method

A. Purpose - This Chapter is enacted for the purpose of protecting and promoting the public health, safety, convenience, and general welfare; to facilitate adequate provisions of public streets and facilities; to improve traffic circulation; to provide for the recreational and open space needs of the community; and to facilitate the subdivision of land and the use of land.

B. Method - This is accomplished by showing existing public streets, grounds, and easements for protection from encroachments and other unauthorized uses, and by showing streets, improvements to streets, conservation open space, and other land identified for public use, and reserving such grounds for acquisition, in fee or by easement or right-of-way, by the Borough in accord with this Chapter and Article IV of the Pennsylvania Municipalities Planning Code.

ARTICLE II Establishment of Controls

§140-4. Provisions of the Official Map

A. Map Elements - The Official Map, as enacted and as subsequently amended, may show appropriate elements or portions of elements of the *Coolbaugh Township, Borough of Mount Pocono, Tobyhanna Township, Tunkhannock Township Regional Comprehensive Plan*, the *Barrett - Mount Pocono - Paradise Open Space and Recreation Plan*, and any other plan or study of the Borough with regard to public lands and facilities, and 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. Conservation easements.
4. Pedestrian ways and easements.
5. Railroad and transit rights-of-way and easements.
6. Flood control basins, floodways and flood plains, storm water management areas and drainage easements.
7. Support facilities, easements and other properties held by public bodies undertaking the elements of Borough plans and studies.

B. Identification and Acquisition - For the purposes of initially identifying 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 metes

and bounds shall be made and sealed by a licensed surveyor, registered in the Commonwealth of Pennsylvania.

C. Additions or Modifications - The Borough Council, by amending this Chapter, may make additions or modifications to the Official Map, and may by Ordinance also vacate any existing or proposed public street, watercourse or public ground, or part thereof, contained in the Official Map. D. Street Design Requirements - Unless otherwise specified, on the official map or within other controlling ordinance provisions, all proposed public street rights-of-way and widenings of existing public street rights-of-way shall meet the design requirements specified in the Borough of Mount Pocono Subdivision and Land Development Ordinance for the highway functional classification as designated by the Official Map or the *Comprehensive Plan*.

§140-5. Incorporation of the Official Map

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

A. Certification of the Official Map - The Official Map shall be identified by the signatures of the Borough Council, attested by the Borough of Mount Pocono Secretary, under the following words: *This is to certify that this is the Official Map of the Borough of Mount Pocono referred to in the Official Map Ordinance of the Borough of Mount Pocono, Monroe County, Pennsylvania,* together with the date of enactment of this Chapter. The Map shall be kept on file with the Borough of Mount Pocono Secretary.

B. Pennsylvania Municipalities Planning Code - The Official Map and Official Map Ordinance have been adopted pursuant to the provisions provided in §140-12 of the Pennsylvania Municipalities Planning Code.

C. Changes in the Official Map - If, in accord with the provisions of this Ordinance, changes are made to the location of lines designating existing or proposed public streets, watercourses, or public grounds or easements, such changes shall be entered promptly on said Map. All changes, except those resulting from subdivision and land development plans as specified in §140-12 shall be certified by initialing of the Map by the President of the Borough Council together with the amending ordinance number and date of enactment, or by the republication of the Official Map and certification in accord with §140-5,A.

§140-6. Notice to Adjacent Municipalities

If the Official Map shows any street or other public land intended to lead into any adjacent municipality, a certified copy of the Official Map, or amendment thereto, shall be forwarded to such adjacent municipality in accord with §408 of the Pennsylvania Municipalities Planning Code.

ARTICLE III Effects of Controls

§140-7. Construction within Mapped Streets or Public Grounds

For the purposes of preserving the integrity of the Borough of Mount Pocono Official Map, no permit shall be issued for any building within the lines of any street 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 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.

§140-8. Special Encroachment Permit

A. Application - 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 special encroachment permit to build. Before granting any special encroachment, permit authorized in this section, the Borough Council may submit the application for a special encroachment permit to the Borough of Mount Pocono Planning Commission and allow the Planning Commission thirty (30) days to review and comment on the special encroachment permit and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard.

B. Appeal - A refusal by the Borough Council to grant the special encroachment permit may be appealed by the applicant before the Zoning Hearing Board in the same manner, and within the same time limitations as is provided in Article IX of the Pennsylvania Municipalities Planning Code in accordance with §140-18 of this Chapter.

§140-9. Time Limitations on Reservations

The Borough Council shall fix the time for which streets and public grounds shown 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 after the owner of such property has submitted a written notice to the Borough Council announcing his intentions to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for a Borough building permit to build a structure for private use, unless the Borough Council shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the following time periods as measured from the date the property owner provided notice or made formal application to the Borough:

A. Driveways; Buildings; Zoning Changes of Use - The reservation period for any action which requires a driveway permit, building/zoning permit, and/or a zoning change of use permit shall be one hundred and eighty (180) days.

B. Subdivisions, Land Developments, Conditional Uses; Special Exceptions; Others - The reservation period for any action which requires approval under the Township Subdivision and Land Development Ordinance, zoning conditional use approval, zoning special exception approval, or any permit or approval not listed in §140-9,A, shall be one (1) year.

§140-10. Effect of Official Map on Mapped Streets and other Public Lands

The adoption of any street, street lines, or other public lands or easements 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 of Mount Pocono to improve or maintain any such street or land. The adoption of proposed public grounds as part of the Official Map shall not, in and of itself, constitute or be deemed to constitute a taking or an acceptance of any land by the Borough of Mount Pocono.

§140-11. Release of Damage Claims or Compensation

The Borough of Mount Pocono may designate any of its employees or officers to negotiate with the owner of the land whereon reservations are made, releases of claims for damages or compensation for such reservations are required, or agreements indemnifying the Borough of Mount Pocono from such claims by others may be required. Any such releases or agreements when properly executed by the Borough of Mount Pocono and the owner, and recorded, shall be binding upon successor in title.

ARTICLE IV Amendment

§140-12. Procedure

The Official Map may be amended in accord with the procedure established by §402 and §408 of the Pennsylvania Municipalities Planning Code.

§140-13. Effect of Approved Plans on Official Map

After adoption of the Official Map, or part thereof, all public streets, watercourses, and public grounds and the elements listed in §§140-4,A, shown on final, recorded plats which have been approved in accord with the Borough of Mount Pocono Subdivision and Land Development Ordinance shall be deemed amendments to the Official Map. Notwithstanding any of the other terms of this Chapter, no public hearing shall be required or public 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 Chapter.

§140-14. Notice to Adjacent Municipalities

If an amendment to the Official Map shows any street or other public land intended to lead into any adjacent municipality, a certified copy of the Official Map amendment, shall be forwarded to such adjacent municipality in accord with §408 of the Pennsylvania Municipalities Planning Code.

ARTICLE V Violations, Penalties and Appeals

§140-15. 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 Chapter, the Enforcement Officer may in the name of the Borough of Mount Pocono:

- A. Institute any appropriate action or proceedings to prevent such unlawful activity;
- B. Restrain or abate such violation;
- C. Prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

§140-16. Notice of Violations

Where it appears to the Borough of Mount Pocono that a violation of any provisions of this ordinance has occurred, the Enforcement Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

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

B. Contents - The enforcement notice shall state the following:

1. The name of the owner of record and any other person against whom the Borough of Mount Pocono intends to take action.
2. The location of the property in violation.
3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
4. The date before which the steps for compliance must be commenced and the date before which steps must be completed.
5. 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 the ordinance.
6. 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.

§140-17. Discontinuance

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

§140-18. Enforcement Remedies

Any person who shall violate the provisions of this Chapter 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 the Borough of Mount Pocono as a result thereof. If the defendant neither pays nor timely appeals the judgment, the Borough of Mount Pocono 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 (5th) 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 Chapter shall be paid over to the Borough of Mount Pocono.

§140-19. Appeals

Any appeal from a decision or action of the Borough Council or of any officer of the Borough of Mount Pocono in matters pertaining to this Chapter shall be made to the Zoning Hearing Board

in the same manner and within the same time limitations as is provided for zoning appeals in Article IX of the Pennsylvania Municipalities Planning Code, as amended.

ARTICLE VI Definition of Terms

§140-20. Language Interpretations

For the purposes of this Chapter, 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 the singular; words of masculine gender include feminine gender, and words of feminine gender include masculine 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 the 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 words and *may* and *should* are permissive.
- E. The words *used* or *occupied* include the words *intended*, *designed*, *maintained*, or *arranged to be used or occupied*.

§140-21. 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 Council: The Borough Council of the Borough of Mount Pocono, County of Monroe, Commonwealth of Pennsylvania.

Borough of Mount Pocono: The Borough of Mount Pocono, the County of Monroe, Commonwealth of Pennsylvania.

Conservation Easement: A legal right granted or sold by a property owner to the Borough, some other public entity, or a private conservation organization which permanently restricts the type and amount of development that may take place on the property, and specifies the type, if any, of public access to the property.

County: The County of Monroe, Commonwealth of Pennsylvania.

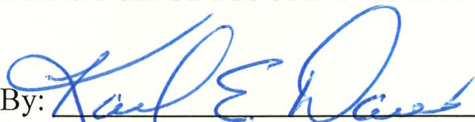
Enforcement Officer: The agent or official designated by the Borough to administer and enforce the provisions of the Borough Official Map Ordinance.

Highway Functional Classification: The identification of general operating conditions and operational characteristics of roads categorized according to a hierarchy, as designated by the Official Map or the Borough of Mount Pocono Subdivision and Land Development Ordinance.

§140-25. Enactment

ORDINANCE ORDAINED AND ENACTED this 5th day of September, 2017, by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania, to be effective immediately.

BOROUGH OF MOUNT POCONO

By: 
Karl E. Davis, Council President

ATTEST:


Lori Noonan, Borough Secretary

APPROVED this 5th day of September, 2017

By: 
Frederick Courtright, Mayor

Municipal or Municipality: The Borough of Mount Pocono, the County of Monroe, Commonwealth of Pennsylvania.

Public Ground: Any land, right-of-way, easement or other interest in land owned, operated, or controlled by a government agency, including but not limited to buildings, streets and street rights-of-way, parks, playgrounds, and open space reservations, conservation easements, sidewalks and pedestrian ways and easements, railroad and transit rights-of-way and easements, airports, flood control facilities, storm water management facilities, and drainage easements. As used in this definition *public* does not necessarily mean the *public ground* is open for the use and access by the general public. For example, a street right-of-way limits use by the property owner over whose land the right-of-way runs, and a conservation easement may only prohibit development but not allow access by the general public.

Public Notice: Notice published once each week for two (2) consecutive 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 not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Right-of-Way: The total width of any land reserved or dedicated for the purposes of a street, crosswalk, or for other public purposes.

Street: A strip of land, including the entire right-of-way, to provide access to more than one (1) lot. The word *street* includes street, avenue, boulevard, thoroughfare, road, highway, freeway, parkway, lane, alley, viaduct, and other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.

Street, Private: A street which is not dedicated for public use and maintenance.

Street, Public: A street which is dedicated for public use and maintenance.

Zoning Hearing Board: The Borough of Mount Pocono Zoning Hearing Board.

ARTICLE VII Repealer, Severability and Enactment

§140-22. Repealer

All existing ordinances or parts of ordinances, which are contrary to the provisions of this Chapter, are hereby repealed to the extent necessary to give this Chapter full force and effect.

§140-23. Severability

Should any article 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 the one so declared.

§140-24. Effective Date

This Chapter shall become effective immediately upon adoption.