

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CONEWAGO TOWNSHIP,
DAUPHIN COUNTY, PENNSYLVANIA, AMENDING PART 5, SECTION 510,
RECREATION AND OPEN SPACE DESIGN STANDARDS OF THE CONEWAGO
TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE.**

ORDINANCE NO. _____

An Ordinance Amending the Township of Conewago Subdivision and Land Development Ordinance, as Amended, Providing for Certain Changes in the Requirements to Chapter 22, PART 5 – Design Standards, §510. Recreation and Open Space.

IT IS HEREBY ENACTED AND ORDAINED BY THE Conewago Township Board of Supervisors that the Township of Conewago Subdivision and Land Development Ordinance is hereby amended as follows:

Part 5 – Design Standards, shall be amended by modifying Section 510 as follows:

§510. Recreation and Open Space Requirements

1. All residential subdivisions or land development plats submitted after the effective date of this ordinance shall provide for suitable open space and/or recreation land in the Township in order to:
 - A. Ensure open space and adequate recreational areas and facilities to serve the future residents of the Township, as set forth in the Conewago Township Parks and Recreation Plan.
 - B. Maintain compliance with Township recreational standards and similar guidelines as developed by the National Recreation and Parks Association.
 - C. Reduce increasing use pressure on existing recreational areas and facilities in the Township.
 - D. Ensure that all present and future residents have the opportunity to engage in many and varied recreational pursuits.
 - E. Protect stream corridors, natural areas and open space corridors for the benefit of the environment and enjoyment of Township residents.

2. Exemptions from Dedicating Public Land for Public Open Space and Recreation
 - A. Any single and/or multi-family residential subdivision or land development plan for which a preliminary or final plan has been submitted prior to the effective date of this ordinance which is ultimately approved and development is substantially completed within five (5) years of approval.
 - B. Any residential subdivision or land development plan, whether single and/or multi-family that contains less than fifty (50) dwelling units may be exempted by the Board of Supervisors from dedicating open space or land for recreational purpose, but shall pay the fee in lieu of land dedication as provided in this

ordinance. Requests for the exemption of land dedications shall be in writing to the Board of Supervisors.

- C. Any non-residential land development plan may be exempted by the Board of Supervisors from dedicating open space or land for recreational purposes, but shall pay the fee in lieu of land dedication as provided in this ordinance. Requests for the exemption of land dedications shall be in writing to the Board of Supervisors.
 - D. Minor subdivisions involving lot add-ons and yard extensions with no new residential development shall be exempt from land dedication. Requests for the exemption of land dedications shall be in writing to the Board of Supervisors.
3. Land Requirements for Public Park and Recreation Land and Public Open Space (Determining "N"):
- A. The minimum amount of land in acres required to be provided for recreational purposes for residential subdivisions or land development plans not exempted from the provisions of this article shall be calculated as follows:
 - (1) Single family residential developments: In the case of a single family subdivision or land development project, the applicant shall provide a minimum of 0.06 acres (approximately 2613.60 square feet) of public recreation land for each building lot or dwelling unit.
 - (2) Multi-family residential developments. In the case of a multi-family land development project, the applicant shall provide a minimum of 0.06 acres (approximately 2613.60 square feet) of public recreational land for each dwelling unit in the multi-family development.
 - (3) Non-residential land developments. In any non-residential land development, a minimum contiguous area of five percent (5%) of the total (gross) lot area shall be provided for recreational uses.
 - (4) In mixed development projects involving any combination of single-family multi-family and/or non-residential developments, the applicant shall calculate the recreation land area requirements for each type of development using the formulas above to combine the figures into a single recreational land area ("N") total.
 - B. Land to be dedicated for public park use shall conform to standards of the Conewago Township Parks and Recreation Plan and §510.4 of this ordinance.
 - C. Such land set aside for recreation uses or open space shall be suitable to serve the purpose of active and/or passive recreation by reason of its size, shape, location and topography in accordance with guidelines established in the Conewago Township Parks and Recreation Plan and shall be subject to the approval of the Board of Supervisors upon recommendation of the Conewago Township Park and Recreation Board.
4. Recreation Land Area and Open Space Location Criteria. The Township Park and Recreation Board, Planning Commission, and the Board of Supervisors, in exercising their duties regarding the approval of subdivision and land development plans, shall consider the following criteria in determining whether to approve the proposed location

of public and private open space and recreation land within the Applicant's subdivision or land development plans:

- A. Recreation Areas, Greenways, and Open Space Areas.
 - (1) Site or sites shall be in conformance with the Township's Parks and Recreation Plan.
 - (2) Site or sites to be used by the public shall be easily and safely accessible from all areas of the development to be served, have good ingress and egress and have access to a public road; however, no public road shall traverse the site or sites.
 - (3) Site or sites shall have suitable topography and soil conditions for use and development as a recreation area.
 - (4) Site or sites necessary for public park use shall be suitable for development as the particular type of park may warrant. The Township will categorize park sites using the standards established by the National Recreation and Park Association, as amended, and the Township's Parks and Recreation Plan.
 - (5) Applicants designing and developing public recreation areas shall consider standards established by the National Recreation and Parks Association or similar standards and provide evidence as to how these standards were incorporated into the reservation and design of public park land.
 - (6) Site or sites for public use shall be easily accessible to essential utilities, such as water, sewer and electric.
 - (7) Site or sites designed for play fields and general recreational uses shall meet minimum size requirements for usable acreage with respect to National Recreation and Parks Association standards with seventy-five percent (75%) of such area having a maximum slope of five percent (5%).
 - (8) If the site or sites have been disturbed or altered prior to dedication, the applicant shall improve it (e.g. grading, top soil replacement, seeding, etc.) as near possible, to the condition acceptable to the Township for use as public parkland.
5. Dedication of Public Recreational Land or Open Space to the Township. The Conewago Township board of Supervisors shall determine whether the land to be dedicated for public use is suitable for public dedication and use. Prior to Board of Supervisors approval of public recreation and open space areas to be dedicated to the Township, the Township Park and Recreation Board shall make its recommendation in writing to the Board of Supervisors as to whether the dedication should be accepted by the Township based on the following standards:
 - A. Recreation land dedicated to the Township shall serve a valid public purpose and shall be suitable for recreational purposes by reason of size, shape, location, topography and access.

- B. Recreation land dedicated to the Township shall meet the recreation land criteria of §510.4 of this ordinance and other relevant recreational guidelines adopted by reference or adopted by the Township in the Conewago Township Parks and Recreation Plan.
 - C. When the Board of Supervisors deems it to be in the public interest to accept dedicated land, such acceptance shall be by means of a signed resolution to which the property deed and description of the dedicated recreation area shall be attached.
6. Private Reservation of Open Space Land.
- A. As provided in §510.7 of this ordinance, the Board of Supervisors may accept the private reservation of open space or recreation areas as a percentage of the required acreage of park and recreation land in lieu of public land dedication. The private land set aside for these purposes shall be suitable in size, dimensions and topography in relation to the proposed use and shall meet all the requirements of §510.4 of this ordinance.
 - B. The Applicant shall satisfy to the Board of Supervisors that adequate provisions are in place to assure permanent retention of all parkland as permanent open space, and that all future maintenance of such parkland or common areas is appropriately addressed by the owner of the property, or a bona fide conservation organization or by providing for and establishing an organization responsible for the ownership and maintenance of recreation areas.
 - C. The Applicant / Owner shall satisfy to the Board of Supervisors that supervision and/or maintenance of private open space or recreation areas will be the responsibility of a bona fide conservation organization or by providing for and establishing an organization responsible for the ownership and maintenance of recreation areas.
 - D. Such organization shall not be dissolved nor shall it dispose of the public open space and recreation area by sale or otherwise, except to an organization conceived and established to own and maintain the recreation area without first offering to dedicate the same to the township.
7. Fee in Lieu of Public Park and Recreation Land Dedication
- A. In accordance with §510.2.B and §510.2.C of this ordinance or upon recommendation of the Conewago Township Park and Recreation Board, or where the Board of Supervisors agree with the Applicant that because of the size, shape, location, access, topography or other physical features; or there is nonconformance with the Township's Park and Recreation Plan; or that it is impractical to dedicate recreation or open space land as required by this Article, the Board of Supervisors shall require a payment of a fee in lieu of dedication of such land. The fee in lieu of land dedication shall be based on the fair market value (FMV) of improved buildable lots on the property.
 - B. Standards for Determining Fair Market Value (FMV) of Buildable Lots:

- (1) Where a fee contribution is made in lieu of required land dedication, the value or amount of such contributions shall be based upon “fair market value” (FMV) of improved residential or non-residential land at the time of the filing of the final plan with the Township or the first final plan phase of a subdivision or land development plan consisting of multiple phases.
- (2) The Board of Supervisors shall determine the “fair market value” (FMV) based upon a written appraisal report prepared by the developer or applicant and signed by an appraiser licensed as such in the Commonwealth of Pennsylvania and certified by such appraiser to be a fair and reasonable appraisal of such land. The FMV Appraisal report shall be submitted with the final plan application. The appraisal shall be made prior to the filing of the final plan or final plan phase. However, in no case shall a FMV appraisal be conducted more than 120 days from the date of plan submission to the Township. If more than one (1) year lapses from the filing of the final plan, the Township shall prepare a new appraisal and will bill the applicant for the cost of the FMV reappraisal.
- (3) Fair market value (FMV) shall be based upon an appraisal of an improved buildable acre of land, where “buildable acre” is defined for this purpose as a “typical area of land within the subdivision or land development with a slope of less than seven percent (7%), and not located in an area subject to flooding, containing stormwater management facilities, easements, or other similar environmental restrictions.
- (4) In accordance with §510.7.B.2, the approved FMV for a buildable acre shall be adjusted with each phased final plan submission to keep current with actual land value if the subdivision and land development is planned in development phases over multiple years as permitted by this ordinance.
- (5) The Township, upon the recommendation of the Board of Supervisors, may refuse to accept any FMV appraisal from any developer or applicant for good cause shown. If the applicant or developer and the Township are unable to agree upon a FMV appraisal, the appraisal shall be submitted to and re-certified by another professional appraiser licensed as such in the Commonwealth of Pennsylvania and chosen mutually by the Township and the applicant or developer. The appraisal certified by the second appraiser shall be presumed fair and reasonable, and shall be the final FMV appraisal. In the event that a second appraiser is chosen, the Township and the applicant or developer shall pay the appraiser equally for fees for the services of said appraisal.

C. Determining the Amount of Fee in Lieu of Land Dedication.

- (1) The amount of fee to be paid in lieu of dedication of land shall be based on the results of the applicants FMV Appraisal Report and the following

formula, where “N” equals the required number of acres of parkland as per §510.3 of this ordinance:

$$\text{“N”} \times (\text{FMV of one improved buildable acre}) = \text{Fee}$$

Examples:

*SF Residential Development with 72 homes on 72 lots
(4.32 acres required) x (FMV per acre of \$25,000) = \$108,000*

*MF Residential with 48 units
(2.88 acres) x (FMV per acre of \$25,000) = \$72,000*

*Non-Residential on 14.35 acre development site
(0.72 acres) x (FMV per acre of \$25,000) = \$18,000*

- D. Any fees authorized under this subsection shall, upon its receipt by the Township, be deposited in an interest-bearing account, clearly identifying the specific recreation facilities for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the cost to construct the specific recreation facilities for which the funds were collected.
 - E. Upon request of any person who paid any fee under this subsection, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, if the Township has failed to utilize the fee paid for the purposes set forth in this Section within three (3) years from the date such fee was paid.
8. Uses of Fees in Lieu of Public Park and Recreation Land Dedication
- A. The fees paid from the subdivision and/or land development should be used for recreational purposes, which are reasonably accessible to the inhabitants of the development that is the source of the fees in lieu of land dedication. In addition, if determined by the Board of Supervisors that the neighborhood area for which the fees were collected is adequately served by recreation land and facilities, the fees may be used for:
 - (1) Acquisition of land and development of facilities at a centralized “Community Park” as recommended in the Conewago Township Parks and Recreation Plan of 2005, provided that the development is within a two (2) mile radius of the park;
 - (2) Acquisition of land and development of facilities for a Greenway along the Conewago Creek as recommended in the Conewago Township Parks and Recreation Plan of 2005, provided that the development is within a one (1) mile radius of the Greenway system.
 - (3) Acquisition of land and development of facilities within a “Neighborhood Park” as recommended by the Conewago Township Parks and Recreation Plan of 2005, provided that the development is within one-half (0.5) mile of the neighborhood park.

- (4) Improvement of planned and existing single common community recreation facilities unique to the Township (e.g. movie screens, rinks, swimming pools, specialized fields and other recreational facilities.

9. Combination Option for Land Dedication, Facility Improvements and Fees

- A. Upon agreement by the Applicant, the Township may accept open space area, the construction of recreational facilities, the payment of fees in lieu thereof, the private reservation of permanent open space for recreational use, the dedication of land located in other areas of the Township, or a combination of the above.

10. Timing of Land Dedication and Payment of Fees in Lieu of Land Dedication and/or Required Improvements

- A. The process for dedicating public open space areas and/or recreation areas; establishing fees in lieu of land dedication; accepting open space areas; the construction of recreational facilities; the private reservation of permanent open space for recreational use; the dedication of land located in other areas of the Township; or a combination of the above may begin during the pre-application and preliminary plan stages of the plan review process.
- B. The transfer of all land to be dedicated or reserved shall be concluded immediately following final plan approval or approval of the first final plan phase of a subdivision or land development plan consisting of multiple phases. On the approved final plan, or the approved first final plan phase of a subdivision or land development plan, consisting of multiple phases, the Applicant shall include an irrevocable statement of dedication guaranteeing that the required park and recreation land described on the subdivision will be dedicated to the Township.
- C. Where land dedication or private open space reserves are required, the proposed deed(s) of dedication shall include the legal description of the area and shall be submitted to the Township Solicitor for review and approval during the final plan review process. Title to the land to be dedicated shall be good and marketable and free of all liens and encumbrances, construction debris, or other defects. Following the approval by the Solicitor of the legal documents related to the land dedication and all other aspects of the plan, the Board shall accept the land dedication and approve the final subdivision and/or land development and proceed with the recording of the plan.
- D. Fees to be paid in lieu of land dedication and any other combination of fees and agreed upon recreational facility improvements shall be agreed to in writing prior to final plan approval or approval of the first final plan phase of a subdivision or land development plan consisting of multiple phases.
- E. Where a fee in lieu of land dedication is accepted, the total fees, determined in accordance with this ordinance shall be paid to the Township prior to any approval of the final plan or approval of the first final plan phase of a subdivision or land development plan consisting of multiple phases. Following the payment of the required fees, the Board shall approve the subdivision and/or land development and proceed with the recording of the plan.

- F. Where a combination of land, fees and improvements is agreed upon by the applicant, all requirements of §510.10.A, §510.10.B, and §510.10.C shall be met and the Applicant shall describe in writing the recreational improvements the Applicant will make to the land to make it suitable for its intended purposes, such as grading, landscaping, facility construction, etc. Any agreed upon park and recreation improvements shall be itemized and addressed in a manner consistent with other public improvements, and processed in accordance with the Township's public improvement guarantee procedures.

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