

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 135, Subdivision & Land Development To Add And Amend Criteria For Land Dedicated For Recreational Purposes; And To Add Criteria For The Recreation Facilities That A Developer Can Construct In Lieu Of The Dedication Of Land For Recreational Purposes.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 135, entitled Subdivision & Land Development, Article IX, Fees, §135-50.1, Dedication of Land for Recreation; Fees in Lieu, subsection (B) thereof, shall be amended and a new subsection (D) shall be added, to provide as follows:

§ 135-50.1 Dedication of Land for Recreation; Fees in Lieu

In order to meet the recreational needs of future inhabitants of developments and subdivisions in the Township, the applicant or developer of any residential subdivision or land development comprising more than three building lots or residential units shall, as a condition of final plan approval, dedicate to the Township, or to a homeowners' association comprised of the owners of the lots set forth on the plan, as the Township shall determine, 15% of the tract area as a recreational area. In lieu of such dedication, and upon agreement with the Township, the applicant or developer may construct recreational facilities, pay to the Township a fee in an amount set forth in Chapter [A167](#) hereof, privately reserve land, or a combination of the above, for park or recreation purposes, subject to the following:

- A.** The land or fees, or combination thereof, are to be used only for the purpose of providing park or recreational facilities accessible to the development.

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- B.** The land to be used for park and recreational facilities shall be in accordance with the principles and standards contained in the Township's recreation plan and/or open space plan and meet the following criteria.

- (1) The land shall be well-drained and suitable for physically active recreational purposes.
- (2) The average slope of the land shall be less than 6%.
- (3) The area set aside cannot have displaced a wetland.

- (4) If an existing park or trail is contiguous, the land dedicated shall connect to the existing park or trail.
- (5) The land shall have appropriate and adequate access for maintenance purposes and for use by pedestrians.
- (6) Whenever possible, the area set aside shall be along the outer boundaries of the tract to allow for future dedication of open space on adjacent land.
- ~~(7) The land shall be set aside and primarily utilized for recreational purposes.~~

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C. Where an applicant or developer requests the Township's agreement to permit the construction of recreational facilities in lieu of the dedication of land for recreational purposes as required by this section, such facilities shall meet the following minimum criteria in addition to those others imposed by the Township:

1. The recreational facilities must be in addition to those otherwise required to be constructed.
2. The recreational facilities must be outdoors and not under roof.
3. The primary use of the facilities must be for active recreational activities.
4. The area of the proposed recreational facilities will be used to measure the degree to which the required 15% of the tract area to be set aside has been satisfied.

D. C. A fee 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 incurred to construct the specific recreation facilities for which the funds were collected.

E. D. 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 years from the date such fee was paid.

F. E. Fees due hereunder are payable at the time of application for a building permit for the residential unit(s).

Section 2. Nothing in this Ordinance or in Chapter 135 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 135 prior to the adoption of this amendment.

Section 3. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Section 4. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board this _____ day of _____, 2017.

BOARD OF COMMISSIONERS
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary