

UPPER BERN TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. # 55, 200

AN ORDINANCE PROVIDING STANDARDS FOR PARK AND RECREATION AREAS FOR REAL ESTATE RESULTING FROM AND SUBJECT TO SUBDIVISION OR LAND DEVELOPMENT; PROVIDING FOR DEDICATION OF SUCH PARK AND RECREATION AREAS AND/OR ESTABLISHING A FEE IN LIEU OF DEDICATION THEREOF.

WHEREAS, the Upper Bern Township Board of Supervisors have hereinbefore enacted a Subdivision and Land Development Ordinance regulating the subdivision and improvement of real estate situated within Upper Bern Township; and

WHEREAS, the Upper Bern Township Board of Supervisors have adopted a plan for the development of parks and recreation areas to service or be accessible to the anticipated residents, occupants, employees, or visitors to such subdivisions and land developments; and

WHEREAS, the plan for the development of parks and recreation areas anticipated that in addition to siting such facilities within new projects the Township will also acquire and develop additional real estate which is accessible to, but not necessarily located within, new subdivisions and land developments; and

WHEREAS, the Upper Bern Township Board of Supervisors desire to adopt certain regulations, standards, and provisions with regard to the identification, location, and development of parks and recreation areas, the dedication of such facilities to the municipality and/or establish a fee in lieu of dedication thereof; and

WHEREAS, the Upper Bern Township Board of Supervisors did hereinbefore adopt an Ordinance providing for the dedication of such park and recreation area and/or establishing a fee in lieu of dedication thereof based upon the projections and evaluations of development, growth, and population needs within the community, which projections do reflect the significant increase of development and population growth within Upper Bern Township and the need to acquire and develop additional real estate which is accessible to, but not necessarily located within, the new subdivisions and land developments currently pending and proposed for the Township; and

WHEREAS, the projections reflect that the Township of Upper Bern consistent with the currently pending and proposed subdivisions and land development and the

population growth resulting therefrom will realize a deficit of park, recreation area, and open space necessary to adequately and properly provide for the needs of its residents and constituents unless the standards for park, recreation area, and open space and the dedication thereof and/or a fee in lieu of dedication thereof are revised accordingly, the Upper Bern Township Board of Supervisors desire to adopt the within standards, regulations, and provisions as it will be applicable within the municipality.

NOW, THEREFORE, BE IT AND IT IS HEREBY ENACTED AND ORDAINED, by the Upper Bern Township Board of supervisors as follows:

SECTION 1. - GENERAL PROVISIONS.

1. All applicants seeking approval of any subdivision and/or land development plan, shall concurrent with the submission of a final plan of subdivision or land development offer for dedication a portion of the land being subdivided or developed, as hereinafter set forth, as public recreation area.
2. Such public recreation area shall provide adequate open space and recreation land and facilities accessible to such developments.
3. Such recreation area shall not be part of any lot, but it shall be dedicated to the Township, or, in the sole discretion of the Board of Supervisors, to a public trust or association, which will perpetually maintain the property for the purposes intended for full access and use by the general public constituting the residents, constituents, and invites of the Township, the documentation for which shall be submitted to and be subject to the approval of the Upper Bern Township of Supervisors and in the case of a public trust or association, if authorized in the sole discretion of the Upper Bern Township Board of Supervisors, shall provide that the said real estate is to be used and occupied exclusively as park and recreation area, is not to be the subject of further subdivision or land development, that the document establishing title to the same shall contain language that said real estate is not subject to further subdivision or land development as a condition running with title to the land and that the public trust or association shall bear all responsibility for ownership and maintenance of said real estate and shall maintain the same in a manner open to the general public constituting the constituents, resident, and invites of the Township.
4. All areas dedicated under the provisions of this section shall be consistent with the goals, objectives, plans, and recommendations of the Upper Bern Township Comprehensive Plan (1992) and the Upper Bern Township Parks and Recreation Plan (2000), which are hereby incorporated by reference as though the same were set forth herein at length, and are to be in accordance with the principles and

standards contained in the Upper Bern Township Subdivision and Land Development Ordinance.

5. In lieu of land dedicated for recreation purposes, a fee may be paid, as hereinafter set forth.
6. The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreation facilities by future residents, occupants, employees, or visitors to the subdivisions or land developments.

SECTION 2. - STANDARDS FOR LAND DEDICATION.

1. Any land dedicated to the Township shall be used only for park, recreation, or open space purposes and shall be available to all residents of the township, subject to such regulations and rules as may be recommended by the Upper Bern Township Parks and Recreation Board and/or adopted by the Upper Bern Township Board of Supervisors.
2. The land to be dedicated shall have size, dimensions, topography, access, and general character suitable for its proposed recreational use, as determined by the Board of Supervisors, in conjunction with the Township Park and Recreation Board and the Township Planning Commission. Any land not suitable for active or passive recreation shall not be accepted as dedicated land; this includes areas within storm water basins that could not be used for recreation.
3. Consideration shall be given to preserving natural features, including rock outcrops, large trees, watercourses, natural features, historic structures and other assets that would enhance the value and aesthetic qualities of the development.
4. The land shall be easily and safely accessible from all residential or occupied areas within the development or the general area to be served, and it shall have road frontage or, subject to the discretion of the Board of Supervisors, suitable access, ingress, and egress from a public roadway for maintenance purposes.
5. The land shall be contiguous and regular in shape, where possible and practical.
6. The Board of Supervisors, may at its discretion, require that land to be dedicated be located along a property boundary so that such land may be combined with dedicated land or other recreation areas that are or will be adjacent to the land to be dedicated.

7. The land shall be located on soils suitable for use and development as a recreation area.
8. No more than 25 percent of the land shall have a slope in excess of 10 percent.
9. No more than 25 percent of the land shall be within floodplain, hydric soil overlay, or wetland areas.
10. The land shall be easily accessible to all necessary utilities.
11. The land shall be designed and developed for its intended park or recreation use in accordance with the recommendations for such as contained in the National Recreation and Park association's Recreation Park and Open Space Standards and Guidelines, 1983, as amended.
12. A minimum of 0.043 acres of land shall be offered for dedication for each residential lot, dwelling unit, or combination thereof, excluding only those subdivisions comprised of three or less tracts or parcels of real estate for single family detached residential development and which have not been the subject of prior subdivisions or land development submissions consisting in total of three or less tracts or parcels of real estate, and a minimum of 0.02 acres of land shall be offered for dedication for each 1,000 square feet of building, structure, or improvement proposed for any non-residential land development plan.
13. No contiguous area of land shall be considered for dedication if it is less than 0.5 acres, and in no event shall the area proposed for dedication be less than fifty feet (50') in width and the Board of Supervisors shall have the discretion not to approve or accept any area of land if it determines not to approve or accept any area of land if it determines that the contiguous area of the same is insufficient to adequately serve as or provide park and recreation area.
14. When land is dedicated, acceptance by the Township shall be by means of a signed resolution and a signed Deed of Dedication executed by the property owner, to which a property description of the dedicated area shall be attached. Subject to the submission of documentation to the Board of Supervisors or its approval, a fee simple warranty deed conveying the property shall be delivered to the Township with title free and clear of all liens, encumbrances, and conditions, other than public utility easements.

SECTION 3. – STANDARDS FOR FEES IN LIEU OF LAND DEDICATION.

1. Subject to the discretion of the Upper Bern Township Board of Supervisors, payment of a fee in lieu of land dedication shall be required as follows:
 - (a) Where land dedication would result in open space or recreation areas too small to be usable;
 - (b) If the Upper Bern Township Comprehensive Plan (1992) or the Upper Bern Township Parks and Recreation Plan (2000) recommends recreation land be provided elsewhere; or
 - (c) If a suitable site for recreation cannot be located within the development.
2. The applicant shall tender to the Township prior to or concurrent with municipal approval a fee in lieu of dedication calculated in an amount equal to \$7,071.00/acre of land required as a result of land dedication of \$510.00/housing unit. The Upper Bern Township Board of Supervisors shall have the discretion to select from the options specified under this section.
3. All fees paid in lieu of land dedication shall be used only for the following:
 - (a) the acquisition of land for parks, recreation areas and facilities, and open space;
 - (b) the construction of improvements on such land; and
 - (c) costs incidental to such purposes, including but not limited to planning, engineering, design, administrative and legal fees, utility relocation or installation, construction of sewage or water facilities, vehicular and pedestrian access, signage, and the purpose of park equipment.
4. All fees paid to the Township shall be deposited in a separate interest-bearing account established for such fees, the records for which shall clearly identify the specific recreational facilities for which such fees have been received. Interest earned on such fees shall become funds of that account and be subject to distribution or expenditure for any and all costs and expenses hereinbefore identified. Funds from such accounts shall be expended only in properly allocable portions of the costs incurred to acquire, construct maintain or improve the specific recreation facilities for which the funds were collected.

5. If the Township fails to plan or utilize the collected fees in accordance with this section within three years of the date such fees were paid the applicant may submit a written request, on such forms as are established by the Township, for the refund of such fees, plus interest that accumulated thereon from the date of fee payment, which request shall be reviewed and acted upon by the Board of Supervisors of Upper Bern Township within 45 days of the date of receipt.

SECTION 4. - COMBINATION OF LAND DEDICATION AND FEES IN LIEU OF LAND DEDICATION

1. The Township may accept a combination of land dedication and fees in lieu of land in order to meet the requirement and standards of the Upper Bern Township Park and Recreation Plan. Such combination shall be subject to the review and approval of the Upper Bern Township Board of Supervisors.
2. The resulting combination of land and fees shall not exceed the total acreage to be developed or the acreage which constitutes the basis of calculating the fee in lieu of dedication required by this Ordinance.

SECTION 5. - DECISION OF LAND DEDICATION VERSUS FEES IN LIEU OF LAND DEDICATION

1. The Upper Bern Township Board of Supervisors shall determine whether land dedication or fees in lieu of land shall be required. Such dedication shall be made as early in the plan review process as possible but not later than concurrent with the preliminary plan approval.
2. The Upper Bern Township Board of Supervisors shall, in reaching its decision, consider the following factors, in addition to any other factors that may be applicable to a particular subdivision plan or land development plan:
 - (a) If the land in that particular location serves a valid public purpose.
 - (b) If there is a need to make a reasonable addition to an existing park or recreation area.
 - (c) If the land meets the objectives and requirements of this section.
 - (d) If the general area surrounding the proposed development has sufficient parks, recreation areas or facilities, or open space and if pedestrians or bicyclists can safely reach these areas.

- (e) Any relevant policies of the Township regarding parks, recreation areas, and facilities, and open space, including those within the Upper Bern Township Comprehensive Plan and the Upper Bern Township Park and Recreation Plan.
- (f) Any recommendations regarding such land that have been received from the Township and/or Berks County Planning Commission, the Upper Bern Township Parks and Recreation Board, the Township Engineer, and/or the Hamburg Area School District.

SECTION 6. - SEVERABILITY

The terms and provisions of this Ordinance shall be independent and severable and in the event that any such term, provision, or section hereof is determined to be illegal or invalid by any court of competent jurisdiction, the balance and remainder of said Ordinance shall remain in full force and effect it being the desire of the Upper Bern Township Board of Supervisors that the remaining terms, conditions, and sections shall remain in full force and effect.

ENACTED AND ORDAINED THIS 3 day of May, 2000.

UPPER BERN TOWNSHIP
BOARD OF SUPERVISORS

John V. [Signature]

[Signature]

[Signature]

ATTEST:

[Signature]
Township Secretary