

TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 4 -99

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX,
CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING ARTICLE
VII, SECTION 705 OF THE MIDDLESEX TOWNSHIP
SUBDIVISION AND LAND DEVELOPMENT ORDINANCE NO. 8-
90, AS AMENDED, PERTAINING TO THE DEDICATION OF
PARK AND RECREATION AREAS AND FEES IN LIEU
THEREOF.

WHEREAS, the Board of Supervisors for Middlesex Township has determined that it is in the best interest of the residents of the Township of Middlesex (the "Township") to provide and ensure adequate park and recreation areas and facilities to serve present and future residents and occupants of Middlesex Township; and

WHEREAS, the Pennsylvania Municipalities Planning Code allows the adoption of provisions in a subdivision and land development ordinance requiring public dedication of land, the construction of recreational facilities and, inter alia, the payment of fees in lieu thereof for park and recreation purposes; and

WHEREAS, the Board of Supervisors has formally adopted a recreation plan necessary for the exercise of said authority hereunder;

NOW THEREFORE, BE IT HEREBY ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Board of Township Supervisors for the Township of Middlesex, Cumberland County, as follows:

SECTION 1: Article VII, Section 705 of the Middlesex Township Subdivision and Land Development Ordinance No. 8-90, as amended, is hereby amended in its entirety as follows:

SECTION 705. PARK AND RECREATION AREAS AND FEES.

An Applicant or Developer of a subdivision or land development plan shall plan for, provide and dedicate to Middlesex Township a suitable and adequate park or recreation area to serve the needs of future residents or occupants of the subdivision or land development or, in the alternative, upon agreement with Middlesex Township, construct and/or improve existing Township park or recreation areas, pay a fee in lieu of dedicating park or recreation areas, guarantee the private reservation and maintenance of park or recreation areas or provide for any combination of the foregoing, all in accordance with the provisions of this Section.

A. Criteria for Proposed Park or Recreation Areas.

1. General Criteria.

The proposed park or recreation areas, whether offered for dedication to Middlesex Township or proposed to become part of a private reservation of land, shall comply with and be subject to the following criteria:

Proposed park or recreation areas shall:

- a. Be easily and safely accessible, have good ingress and egress and have direct access to a public roadway. However, no public roadways shall traverse the site(s).
- b. Be contiguous and regular in shape.
- c. Have suitable topography and soil conditions for use and development as a park or recreation area.
- d. A minimum of seventy-five percent (75%) of the required area shall have a maximum slope of seven percent (7%).
- e. A twenty-five percent (25%) maximum of the required area may be within flood plain or wetland areas, as defined by the U. S. Department of Housing and Urban Development's Flood Insurance Rate Maps.
- f. Be easily accessible to all essential

utilities, such as water, sewer and electric.

g. Be suitable for development as a particular type of park or recreation area, as categorized by the latest edition of the National Recreation and Park Association's National Park, Recreation and Open Space Standards and Guidelines.

h. Be compatible with the objectives, guidelines, and recommendations as set forth in the latest Middlesex Township Comprehensive Park, Recreation and Open Space Plan.

2. Specific Criteria Applicable to the Private Reservation of Land.

Proposed park or recreation areas proposed as part of the private reservation of land shall be subject to the following requirements:

a. Be designed and developed according to the latest standards established by the National Recreation and Park Association.

b. Actual size, number, placement and other specifications of park or recreation areas to be developed shall be recommended by the Middlesex Township Recreation Advisory Board to the Planning Commission and Board of Supervisors after discussions with the developers.

c. Final subdivision and/or development plans shall indicate the location and specifications of all park and recreation areas to be constructed and set forth metes, bounds and acreage(s) of the park and recreation area(s).

d. Park and recreation areas shall be bonded and have improvement guarantees posted or deposited with the Township as with any other subdivision or land development improvements.

3. Land Area Dedication Requirements.

The area of any land either dedicated to Middlesex Township or proposed as part of a private reservation of land shall be determined as follows:

a. Residential Land.

Middlesex Township has developed a goal of providing ten (10) acres of park or recreation

land for each 1,000 residents. The average size of a household in Middlesex Township as determined by the 1990 United States Census is 2.66. To derive a per unit calculation, the 1,000 population figure is divided by the average household size resulting in the following calculation: $1,000/2.66$ persons per dwelling unit = 376 dwellings. Dividing this number of dwellings by the desired 10 acres per 1,000 residents goal yields the following amount of land:

$$10 \text{ acres}/376 \text{ dwellings} = .027.$$

Accordingly, .027 acres of land for each proposed dwelling unit shall determine the minimum total land area to be dedicated. This land area as calculated by the above formula shall be subject to change by Resolution of the Board of Supervisors.

b. Non-residential Subdivision or Land Development.

The Board of Supervisors recognizes that the use and development of land for non-residential purposes in most instances results in concentrations of persons on the subject property substantially in excess of any residential concentrations of persons. Further, such non-residential uses of property result in an influx of business invitees, employees and others, who, due to the proximity and availability of Township park and recreation facilities, utilize and will in the future utilize such facilities. Accordingly, non-residential developments shall dedicate a minimum of ten percent (10%) of gross land area for park or recreation use.

B. Dedication of Land to Middlesex Township.

1. All or part of park or recreation areas may be offered for dedication to the Middlesex Township, but the Township shall not be obligated to accept same.

2. Such area dedicated to the Township for public use shall be suitable for park or recreational purposes by reasons of size, shape, location, topography and access, and shall meet all other criteria set forth in this Section.

3. Park or recreation areas of less than three (3) acres shall not be accepted by the Township unless the Board of Supervisors, after recommendation by the Middlesex

Township Recreation Advisory Board and the Planning Commission, find that conditions exist unique to the subject property which make acceptance of dedication in the best interest of the Township.

4. The Board of Supervisors, after receiving recommendation from the Middlesex Township Recreation Advisory Board and the Planning Commission, may determine dedication to be impractical because of the size, shape, location, access, topography, drainage or other physical features of the land, or that such dedication would adversely affect the subdivision or land development and its future residents or occupants, or that there is no other land area within the proposed subdivision or land development which is practical for dedication to the public because of size, access, topography, or other physical characteristics. In such event, the Applicant or Developer, upon agreement with the Township, shall provide a private reservation of land for park or recreational purposes, pay a fee in lieu of dedication or construct or improve existing park or recreation facilities, each in accordance with the requirements of this Section.

5. When the Board of Supervisors deems it to be in the public interest to accept title to dedicated land, such acceptance shall be by means of a signed resolution to which the property description, lot plan with metes, bounds and acreage, and a fee simple title deed with general warranty free of any liens, encumbrances or easements on and to the dedicated recreation area, shall be attached.

6. All approved park and recreation areas shall be completed and dedicated before 50% occupancy has been reached in any applicable residential subdivision. Withholding of building permits may occur to insure compliance with this provision. With respect to non-residential subdivisions or land development, all approved park and recreation areas shall be completed prior to the substantial completion of all other improvements required by ordinance or law to be secured or guaranteed. This paragraph shall be applicable to any park and recreation areas proposed as a private reservation of land for park or recreation purposes.

C. Private Reservation of Land For Park or Recreation Purposes.

All park and recreation areas offered but not accepted by the Township or not offered but proposed to be a private reservation of land as park and recreation area for use of the residents or occupants of the land subject of the subdivision or land development, shall, upon recommendation of the Middlesex Township Recreation Advisory Board and the

Planning Commission, and, upon agreement of the Board of Supervisors, be irrevocably conveyed to a duly incorporated property owner's association, which shall be responsible to properly maintain perpetually all of such park and recreation areas, pay all taxes assessed to the land as well as any improvements thereon and supervise all activities conducted thereon. The Township shall have no obligation whatsoever in connection with such park or recreation areas other than the normal municipal services provided to the public in general.

The deed of conveyance of such park and recreation areas shall contain a restrictive covenant limiting such land and improvements to the common use of the property owners within the development for the purposes initially approved by the Township. Said deeds shall also contain a restriction that said lands and improvements may not be sold or disposed of by the association, except to another organization formed to own and maintain said recreation areas, without first offering to dedicate the land and improvements to the Township.

D. Constructing or Improving Existing Park or Recreation Facilities.

As an alternative to dedicating land to the Township, the private reservation of land or payment of a fee in lieu of dedication, the Applicant or Developer, upon agreement with the Board of Supervisors and after recommendation by the Middlesex Township Recreation Advisory Board and Planning Commission, can construct or improve park or recreation facilities on Township land upon such terms and conditions as shall be approved by the Board of Supervisors.

E. Fee in Lieu of Dedication.

1. In lieu of dedicating park or recreation land to the Township, the Applicant or Developer may pay to the Township the after-developed fair market value of the land which would have been otherwise required for dedication. The after-developed fair market value shall be determined on the basis that the land has access to a public roadway and the availability of all utilities and shall not reflect a value of the land in a raw condition or state.

This fair market value shall be submitted as part of the preliminary plan submission by the Applicant or Developer at the Applicant's or Developer's expense and shall be determined by a Member of the Appraisal Institute of the American Institute of Real Estate Appraisers (MAI) and shall include any documentation used to derive the land's after-developed fair market value.

The Board of Supervisors shall have the right to reject any appraisal and select another appraiser at the expense of the applicant or developer which will establish the fee to be paid based upon the after-developed fair market value of the land.

2. The Applicant or Developer may, at their option, elect not to submit an appraisal as set forth in the preceding paragraph. In such event, the fee to be paid in lieu of dedication shall be determined on the follow basis:

a. With respect to residential subdivisions and land developments, the fee to be paid in lieu of dedication shall be in the amount of \$400.00 per dwelling unit;

b. With respect to non-residential subdivisions and land developments, the fee to be paid in lieu of dedication shall be in the amount of \$1,000.00 per acre.

The Board of Supervisors may change and establish from time to time the fees set forth hereinabove by Resolution. All amounts established shall remain in effect until a succeeding Resolution establishing other fees is adopted.

3. All fees paid hereunder shall be due and payable in full upon approval of the final subdivision or land development plan or phase or section thereof and shall be paid prior to the release of any plan for recording.

4. All monies paid to the Township pursuant to Section 705.E. hereof shall be deposited and utilized in accordance with the provisions and requirements of the Pennsylvania Municipalities Planning Code.

SECTION 2:

If any section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect or impair the validity of this or the Middlesex Township Zoning Ordinance as a

whole, or any other section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this or the Middlesex Township Zoning Ordinance. The Board of Township Supervisors hereby declares that it would have adopted this Ordinance and each section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more of the sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

SECTION 3:

This Ordinance shall become effective in accordance with applicable law.

ENACTED AND ORDAINED this 26 day of March , 1999.

TOWNSHIP OF MIDDLESEX

BY: Robert M. Egan
Chairman, Board of Township Supervisors

ATTEST:

Mary S. Just
Township Secretary

(Township Seal)