

HEIDELBERG TOWNSHIP, LEBANON COUNTY, PENNSYLVANIA

ORDINANCE No. 139

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF HEIDELBERG TOWNSHIP, IN THE COUNTY OF LEBANON, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE TO ADD PROVISIONS REQUIRING THE MANDATORY DEDICATION OF PARK, RECREATION AND OPEN SPACE LAND IN ANY NEW RESIDENTIAL SUBDIVISION OR RESIDENTIAL LAND DEVELOPMENT, AND PROVIDING FOR THE PAYMENT OF A FEE-IN-LIEU OF DEDICATION OF LAND IN CERTAIN SITUATIONS.

WHEREAS, the Board of Supervisors has adopted a Recreation and Park Plan for Heidelberg Township, and

WHEREAS, to implement this Plan, the Board of Supervisors has determined that all residential subdivisions and residential land developments shall be provided with park, recreation and open space land which shall be dedicated to the Township.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Heidelberg, and it is hereby enacted and ordained as follows:

**Section 1.** The Ordinance Chapter 5, Required Improvements and Design Standards, shall be amended by adding a new Section 518, Public Dedication of Park and Open Space Land, which shall provide as follows:

**SECTION 518 PUBLIC DEDICATION OF PARK AND OPEN SPACE LAND**

Each subdivision and land development plan shall include the mandatory dedication of park and open space land, consistent with the provisions of this section.

- A. Consistent with the standards of the Heidelberg Township Recreation and Park Plan, the amount of park and open space land required to be dedicated shall equal at least 10 acres of park land per 1,000 residents, or 0.030 acres of land per residential lot or equivalent residential dwelling unit in residential subdivisions and land developments. No dedication of land (or payment of a fee in lieu of dedication of land) shall be required for residential subdivisions or land developments involving existing dwelling units where (1) no new dwelling units are proposed or (2) no new buildable lots are created.
- B. For nonresidential land developments, excluding nonresidential agricultural uses, public uses and private schools, the developer shall dedicate a minimum of 3.0% of the proposed development's total land area, including areas of current and proposed public right-of-way, to the Township

- C. The land reserved and dedicated to the Township for park and open space usage shall be a single lot, which shall comply with the requirements of this ordinance, the Heidelberg Township Zoning Ordinance, and the following specific requirements:
1. The land must be a minimum of 5 acres in size (unless the intended use is for a special use park or linear park development).
  2. The land, where feasible, shall be in such a location that additional adjacent land abutting two or more boundary lines shall be undeveloped, and available for purchase by the Township for the expansion of the recreation area, and of such character (terrain, topography, physical features, etc.) that the adjacent land can reasonably be developed into a park or recreational land which assessment and determination shall be made by the Board of Supervisors.
  3. The land shall be easily and safely accessible for vehicles, pedestrians and/or bicycles.
  4. A maximum of 15% of the tract may consist of floodplain, wetland, steep slopes, utility easements or rights-of-way, or other features that otherwise render the lots undevelopable for its intended recreation use.
  5. The tract shall have accessibility to utilities including water, sewer and power, unless deemed unnecessary by the Township for the intended park facility development such as a greenway/linear park development.
  6. The tract shall not contain storm water facilities designed to detain or retain storm water for another site.
- D. Where the Board of Supervisors determines that because of size, shape, location, access, topography or other physical features of the land, that it is impractical to dedicate land to the Township or set aside a recreation area as required by Sections 518 A. and B. above, the Board of Supervisors shall require a payment of a fee-in-lieu of such land which shall be payable to the Township prior to the recording of each final plan and shall be in an amount equal to the percentage of the total number of dwelling units for each phase. The fee-in-lieu of land may be adjusted from time to time by resolution of the Board of Supervisors. The fees collected hereunder shall be utilized by the Township for recreational purposes and shall be administered in accordance with Section 503(11) of the Pennsylvania Municipalities Planning Code, 53 P.S. §10503(11), including any future amendments.
- E. A fee authorized under this Section shall, upon its receipt by the Township, be deposited in an interest bearing account. Interest earned on such an account shall become funds in that account. Funds from such accounts shall be used as provided with Section 503 (11) of the Pennsylvania Municipalities Planning Code, 53 P.S. §10503 (11), including any future amendments.

- F. Upon agreement by the developer, the Township may accept the construction of recreational facilities, the payment of fees-in-lieu thereof, the private reservation of land for recreational purposes, the dedication of land located in other areas of the Township, or a combination of the above.

The Township may also grant credits of recreation fees-in-lieu of dedication in exchange for the construction of recreational facilities and/or the dedication of additional park and open space land beyond that which is required to be dedicated land in accordance with Sections 518 A. and B. In no event, however, shall credits of recreation fees-in-lieu of dedication of recreation land be utilized for other than future residential lots subdivided by the developer, its successors or assignees.

- G. If the developer proposes the private reservation of land, through either the inclusion of such land as common elements of a condominium or planned community as contained in the Pennsylvania Uniform Condominium Act, 68 Pa.C.S. §3101 et seq. or the Pennsylvania Uniform Planned Community Act, 68 Pa.C.S. §5101 et seq., then such documentation shall be recorded, and shall provide that the land cannot be further developed. Furthermore, the Township shall be granted the rights to maintain the land as set forth in Article VII of the Municipalities Planning Code dealing with the maintenance of common open space in planned residential developments. Notwithstanding the foregoing, the developer may request that the Board of Supervisors approve a transfer of the land to an organization dedicated to the conservation of natural resources with deed restrictions preventing further development acceptable to the Township Solicitor.
- H. The landowner shall enter into an agreement with the Township setting forth the fees to be paid, the facilities to be constructed, or the land to be privately reserved and the method of its maintenance. All such agreements shall be executed prior to final plan approval.

**Section 2.** All other sections, parts and provisions of the Subdivision and Land Development Ordinance of Heidelberg Township shall remain in full force and effect as previously enacted and amended.

**Section 3.** In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall remain in full force and effect.

**Section 4.** This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of Heidelberg Township as provided by law.

Duly ORDAINED and ENACTED this 23rd day of July, 2013,  
by the Board of Supervisors of the Township of Heidelberg, Lebanon County,  
Pennsylvania, in lawful session duly assembled.

ATTEST:

Township of Heidelberg  
Lebanon County, Pennsylvania

  
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Bruce Kramer, Secretary

By:   
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Paul K. Fetter, Chairman