

# ORDINANCE NO. 64

## SHOHOLA TOWNSHIP

PIKE COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE SHOHOLA TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF JANUARY 10, 1991, TO REQUIRE, IN ASSOCIATION WITH SUBDIVISIONS AND LAND DEVELOPMENTS, THE DEDICATION OR RESERVATION OF RECREATION OR PARK LAND OR THE PAYMENT OF RECREATION AND PARK FEES IN LIEU THEREOF.

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Shohola Township, Pike County, Pennsylvania, by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the *Pennsylvania Municipalities Planning Code*, as follows:

**The Shohola Township Subdivision and Land Development Ordinance of January 10, 1991, as amended, is hereby amended as follows:**

**ITEM 1 - Add the following definition to Article II:**

Open Space (for the purposes of §613) - Any parcel or area of land or water, essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests. Publically reserved open space may be owned in fee by a public entity or private open space may be precluded from development by a conservation easement held by a public entity or a private nonprofit conservation organization.

**ITEM 2 - ADD THE FOLLOWING §613:**

613 Park and Recreation Land and Fees

613.1 Park and Recreation Purposes

Pursuant to the procedures and requirements of §503(11) of the Pennsylvania Municipalities Planning Code, the Board of Supervisors has prepared and enacted a Recreation and Park Plan and for the following purposes:

- A. To examine existing recreational facilities, parks and open space in light of current and projected demands.
- B. To evaluate the future need for recreation facilities, parks and open space.
- C. To establish priorities for immediate and long-range acquisition, development and improvement of recreational facilities, parks and open space.
- D. To analyze the administration and management of facilities and services to determine the level of efficiency and recommend improvements.
- E. To examine funding options in order to acquire, develop, construct and/or maintain recreation facilities, parks and open space.

613.2 General Provisions

- A. Requirement - All applicants shall, concurrent with the submission of a final plan of subdivision or land development, comply with the requirements of this §613. In conformance with the Pennsylvania Municipalities Planning Code, this section requires the public dedication of land suitable for park land, noncommercial recreational uses, and preserved open space. Any of the following alternatives may be approved by the Board of Supervisors in lieu of public dedication of land, in accord with this §613:
  - 1. payment of recreation fees,
  - 2. dedication of recreation land or preserved open space to a homeowner association or other responsible entity pre-approved by the Township if open to the general public, or
  - 3. a combination of these alternatives.
- B. Exemption - The provisions of this §613 shall not apply to any lot consolidation or any minor subdivision/lot improvement.
- C. Relationship to Required Private Common Open Space - The public land dedication/reservation and fees required by this §613 shall be in addition to any private common open space dedication or reservation required by this Ordinance or the Township Zoning Ordinance.
- D. Preliminary Plan Documentation - The applicant shall submit the following with the preliminary plan application for any subdivision or land development:
  - 1. A description of the anticipated population characteristics of the future occupants of the development, such as likely age groups.
  - 2. The method by which the applicant proposes to comply with the requirements of this §613.
- E. Plan Details - The preliminary and final plans shall contain a sheet depicting the land proposed for use in meeting common open space requirements, or a note stating that the applicant proposes to pay fees-in-lieu of land. The plan shall also describe any improvements or facilities that the applicant proposes to make to the land.

613.3 Decision on Land vs. Fees

The Township shall, for each application, determine whether this §613 shall be satisfied by dedication of land or the payment of an in-lieu fee.

A. Fees Required

- 1. If the applicant does not propose dedicating common open space that meets Township requirements or if the Board of Supervisors and applicant agree to the payment of fees, then the payment of recreation fees shall be required instead of land dedication.
- 2. For any subdivision or land development of ten (10) lots and/or dwelling units or less, the payment of fees shall be required and the dedication of land shall not be accepted.

**B. Public Access; Criteria -**

1. Public Access - Land which is not open to the general public shall not be acceptable under any condition.
2. Criteria - In addition, the Township shall, at a minimum, consider the following:
  - a. Whether the land complies with the requirements of §613.4.
  - b. Whether the land in that location would serve a valid public purpose.
  - c. Whether there is potential to make a desirable addition to an existing public or school district recreation area.
  - d. Whether the proposed land would meet the objectives and requirements of this §613 and any relevant policies of the Township Comprehensive Plan, the Township Recreation and Park Plan, and/or any other relevant Township plan or policy.
  - e. Whether the area surrounding the proposed development has sufficient existing recreation and open space land, and whether it is possible for pedestrians and bicyclists to reach those lands.
  - f. The adequacy of existing Township recreation and park facilities.
  - g. The impact of adjoining land uses on the recreation use of the land proposed for dedication, and the impact of the land proposed for dedication on adjoining land uses.

**613.4 Standards for Land Dedication or Reservation**

The Board of Supervisors may approve the dedication or reservation of land in accord with this §613.4 only if such land is consistent with the specific goals, objectives, plans and recommendations of the Township Comprehensive Plan and the Township Recreation and Park Plan and comply with the principles and standards contained in this Ordinance.

- A. Public Use - The land shall be used only for recreation, park, or open space purposes and shall be available to all residents of the Township and the general public, subject to such regulations and rules as may be recommended by the Township Park and Recreation Board and/or adopted by the Board of Supervisors.
- B. Amount - Not less than five thousand (5,000) square feet of land per lot and/or dwelling unit shall be dedicated or reserved, and at least fifty (50) percent of such land shall be:
  1. less than seven (7) percent slope,
  2. not a wetland under Federal and/or State regulations,
  3. not within the 100 Year Floodplain as defined by the current Township Flood Insurance Rate Map.
- C. Minimum Size - No individual area of land shall be considered for dedication or reservation if it is less than two (2) acres in size, and in no event shall the area proposed for dedication be less than two hundred (200) feet in average width. The Board of Supervisors shall have the discretion not to approve or accept any individual area of land if it determines that the area of the same is insufficient to adequately serve as or provide park and recreation area.
- D. Standards - The following standards shall apply to all land dedicated or reserved in accord with this §613:

1. Characteristics - The land shall be contiguous and regular in shape, and 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 in accord with generally accepted park and recreation standards. Any land not suitable for active or passive recreation shall not be accepted as dedicated land; including areas within storm water basins that could not be used for recreation, parking areas, and roadways.
  2. Natural Features - Consideration shall be given to preserving natural features, including rocks and rock outcrops, large trees and tree stands, watercourses, historic structures and areas, and other community assets that would enhance the value and aesthetic qualities of the development.
  3. Access - The land shall be safely accessible from all residential or occupied areas within the development and 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.
  4. Relationship to other Recreation Land - The Board of Supervisors may, at its discretion, require that land be located along a property boundary so that it may be combined with other recreation areas that are or will be adjacent.
  5. Soils - The land shall contain soils suitable for use and development as a recreation area.
  6. Improvements - The land shall be cleared and graded for the intended recreational use and shall be complete with all necessary improvements (e.g., storm drainage, streets, utilities, etc.) as determined by the Board of Supervisors.
  7. Site Evaluation - The Developer shall provide and pay for any tests, investigations, inspections, surveys as required by the Township so as to ensure the immediate availability of the land for recreational use. Such tests, investigations, inspections or surveys may include, but shall not be limited to:
    - a. Phase I Environmental Study.
    - b. Wetlands delineation.
    - c. Flood plain delineation.
    - d. Archaeological study.
    - e. Survey of tract with pins installed.
- E. Map Notation - The deed for any dedicated land shall be recorded and shall contain the following or similarly effective restrictive clause: *This land was acquired for perpetual public park and open space purposes through the implementation of the Shohola Township Subdivision and Land Development Ordinance.*
- F. Dedication; Reservation
1. The public recreation facility, park or open space area shall be dedicated to the Township or, in the sole discretion of the Board of Supervisors, it may be reserved in the name of a public trust or association, which will perpetually maintain the property for the purposes intended, the documentation for which shall be submitted to and be subject to the approval of the Board of Supervisors.
  2. 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 for 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.

3. The instruments of dedication or reservation shall stipulate that the real estate is to be used and occupied exclusively as recreation area, park or open space, is not to be the subject of further subdivision or land development, and shall establish such restrictions as conditions running with title to the land.

**613.5 Recreation/Park Fees**

If the Board of Supervisors determines that the fee shall be paid in lieu of land dedication, such fee shall be assessed in accord with the following:

- A. Fee Amount - The fee amount shall have been established by Resolution of the Board of Supervisors and shall be based on a per lot or per dwelling unit basis.
- B. Accounting - Any fees collected under this section shall 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.
- C. Use of Fees - The fees shall be used for Township or other public recreation facilities, parks or open space located in the Township. In addition, the Board of Supervisors may commit fees to a recreation area or park open to the public in an adjacent municipality that would serve the inhabitants of the development that paid the fees.
- D. Time Limit on Use - Upon request of any person who paid any recreation fee, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, if the Township has failed to use the fee for the purposes set forth in this §613 within three (3) years from the date such fee was paid.
- E. Timing of Payment - Fees shall be paid prior to the approval of the final plan. The applicant and the Board of Supervisors may mutually agree to provisions in a binding development agreement to enable the payment of all applicable recreation fees prior to the issuance of any building permit within each clearly defined phase of the development. In such a case, the time limitation established in §613.3,D shall not begin until all such fees are paid for all development phases.

**613.6 Combination of Methods**

The Board of Supervisors may accept a combination of fees, land dedication or land reservation, to meet the requirements and standards of the Township Recreation and Park Plan. Such combination shall be subject to the review and approval of the Board of Supervisors.

**613.7 Credit for Private Recreation Improvement**

Where a substantial private park and recreational area is provided in a proposed subdivision or land development and is to be privately owned and maintained by the residents of the subdivision, partial credit, not to exceed fifty (50) percent, may be given against the requirement of public land dedication or fees after determination by the Board of Supervisors that it is in the public interest and the following standards are met:

- A. That buffer areas, setbacks, and other open areas required by the zoning ordinance and other regulations shall not be included in the computation of such private open space.
- B. That the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance or restrictions.

- C. That the use of the private open space is restricted for park and recreational purposes by recorded covenant which runs with the land in favor of the future owners of the development property and which cannot be defeated or eliminated without the consent of the Township Board of Supervisors.
- D. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location.
- E. That the open space for which credit is given is a minimum of two (2) acres and provides recreational improvements which will meet the specific recreation and park needs of the residents of the development.
- F. That the recreational improvements be completed during the first phase of the development construction.

**SEVERABILITY**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole, or any parts thereof.

**REPEALER**

All other Ordinances or sections of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**ADOPTION**

**Be it Hereby Enacted and Ordained** this \_\_\_\_ Day of \_\_\_\_\_ 2007, by the Board of Supervisors of Shohola Township, Pike County, Pennsylvania.

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Attest:

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Secretary