

**TOWNSHIP OF SILVER SPRING
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2018-02

**AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING,
CUMBERLAND COUNTY, PENNSYLVANIA AMENDING ORDINANCE NO. 95-11,
AS AMENDED, WHICH PROVIDES FOR SUBDIVISION AND LAND
DEVELOPMENT WITHIN THE TOWNSHIP OF SILVER SPRING, TO REVISE
PROVISIONS RELATED TO THE DEDICATION OF LAND, OR PAYMENT OF A
FEE-IN-LIEU, BY DEVELOPERS FOR PARKS, OPEN SPACE, AND TRAILS**

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Silver Spring, Cumberland County, Pennsylvania, that Ordinance 95-11, as amended, known as the Silver Spring Township Subdivision and Land Development Ordinance, is amended as follows:

SECTION 1: Article II, Definitions, shall be amended by inserting the following terms in alphabetical order:

Common Open Space – A parcel or parcels of land or an area of water, or a combination of land and water and designed and intended for the use or enjoyment of township residents, not including streets, off-street parking areas, building areas, parking areas, utility rights-of-way, private yards, required yard setbacks, utility easements, Primary Conservation Areas, sewage treatment and disposal areas, stormwater management facilities, but may include impervious surfaces for bicycle and walking trails.

Parks – Those facilities designed and used for active and/or passive recreation purposes by the general public, residents of a development or users of non-residential developments. See also: Parks, Public and/or non-profit in Article II of the Silver Spring Township Zoning Ordinance.

Recreation, Active – Recreation activities, including the facilities used for such activities, that are usually rigorous athletic, and may have an impact on the surrounding neighborhood and environment. Active recreation may include, but is not limited to, individual or team sports, child’s play, playground ball, ball courts, swimming pools and recreation events with a large number of participants and/or spectators.

Recreation, Passive – Recreational activities, including the facilities used for such activities, that are not rigorously athletic. Passive recreation may include, but is not limited to, walking hiking, fishing bird watching, and picnicking.

Recreation Facility – a place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreation activities.

Recreational Use, Indoor – The use of a building or part thereof for indoor sports such as bowling, tennis, racquetball, squash, indoor basketball, indoor swimming and those sports activities usually conducted indoors, but excluding target shooting or any other activities that create loud noises or may be dangerous or disturbing to surrounding residents or workers.

Recreational Use, Outdoor – A recreational use and associated facilities designed and equipped for the conduct of sports and leisure time activities, including swimming, tennis and other court games, baseball and other field sports, playground and other outdoor activities, but excluding amusement parks; go-carts, dirt bikes or motor-cross tracks; shooting ranges and other activities which generate noise objectionable to a residential or office environment.

Trail – A right-of-way containing a path, either paved or unpaved, for pedestrians, equestrian or bicycle use.

SECTION 2: Article VI, Section 615 shall be amended, revised, and replaced as follows:

SECTION 615

PARK, OPEN SPACE AND TRAIL PROVISION.

This section shall apply only to any residential subdivision or land development applications and plans filed after the effective date of this ordinance.

This section shall not apply to:

- a) Applications and plans that the Township Board of Supervisors determine as minor adjustments or corrections to applications and plans;
- b) Public schools, or buildings associated therewith;
- c) The Township, any authority created by the Township, or any other Township agency; and
- d) Agricultural uses.

Such exemptions are granted on the basis that schools, local government agencies and agriculture serve an overriding public interest which warrants an exemption from donation of land or recreation fee. It is the purpose of this section to implement the language contained in Section 503(11) of the Pennsylvania Municipalities Planning Code and thereby provide needed recreation/open space to accommodate growth.

All park, open space and trail proposals shall be submitted for review by the Silver Spring Township Recreation Advisory Council.

SECTION 3: Article VI, Section 615.01 shall be amended, revised, and replaced as follows:

615.01 **Mandatory Dedication.**

- a) Prior to Final Plan approval, any subdivision or land development that would result in the creation of one or more new dwelling units shall be required to dedicate a minimum of .037 acres of park, open space or trails, per dwelling unit to the Township. The land dedicated for parks, open space or trails shall meet the requirements in Section 615.02, below.
- b) As an alternative to dedication, and upon agreement with the Board of Supervisors, the applicant may agree to provide any of the following:
 - (1) Construct and/or improve existing recreation facilities in accordance with the Comprehensive Recreation, Parks and Open Space plan upon agreement and final approval of the recreational facilities design by the Board;
 - (2) Pay a fee-in-lieu of dedication as established by resolution of the Board of Supervisors;
 - (3) Guarantee the private reservation and maintenance of parks, open space or trails, designed to meet the requirements in Section 615.02; or
 - (4) Provide for any combination of the above.

The total value of the preceding alternatives must be at least equal to the predevelopment fair market value of the acreage which would have been otherwise required for dedication unless the fee-in-lieu of dedication is the only alternative used without combination with other alternatives, in which case only the fee established by the Board is required to be paid. Fair market value shall be submitted by the developer and 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 site's fair market value. The appraisal required by this subsection shall be prepared by an MAI appraiser with no interest, financial or otherwise, in the affected property or development application. Should the Township dispute the appraised fair market value, it shall reserve the right to obtain its own appraisal, and, in the event that the Township

appraisal is valued at less than 10% greater than the applicant's appraisal, the value shall be the average of the two appraisals. In the event that the Township appraisal is valued 10% greater or more, than that of the applicant, then a third appraiser shall be selected by agreement of the Township and applicant to be paid for by the applicant, to resolve the difference. The determination of the third appraiser shall be final.

- c) The land or fees, or combination thereof under Section 615.01.b are to be used only for the purpose of providing, acquiring, operating or maintaining park or recreation facilities reasonably accessible to the development.

SECTION 4: Article VI, Section 615.02 shall be amended, revised, and replaced as follows:

615.02 Park, Open Space and Trail Land Requirements. The land to be utilized as parks open space and/or trails shall be in accordance with the principles and standards contained in the *Silver Spring Township Comprehensive Parks, Recreation and Open Space Plan*, and/or the *Official Map*.

- a) All lands for park, open space and trails shall meet the following criteria:
 - (1) Land shall be located and designed so that safe and convenient access shall be provided via public sidewalks or trails.
 - (2) In order to create a single, larger recreation site, the land shall, where feasible, be located adjacent to existing parkland, protected open space, undeveloped tracts, or other dedicated tracts.
 - (3) The land shall comprise of a single parcel of land except where the Board of Supervisors determines that two or more parcels would be in the public interest.
 - (4) The land shall contain 50 feet or more of street frontage.
 - (5) Each land area set aside for park, open space and trails shall have access for maintenance and emergency purposes with at least one area available for vehicular access that is no less than twenty-four (24) feet in width.
 - (6) The site shall be sized and configured so as to accommodate its intended uses. Where active recreation is proposed, the applicant shall demonstrate that the land is configured to accommodate recreation activities proposed by the plan. Sites

intended for active recreation shall not contain wetlands or slopes over eight percent (8%).

- (7) Where trails are provided, the land area shall include a trail easement with a width of fifteen (15) feet, minimum.
 - (8) Land may meet the dedication requirement by providing a public trail connection, extending an adjoining public park, constructing a new trail, or providing an outdoor area accessible to employees and/or the public.
 - (9) If an existing park or trail is contiguous, the land shall connect to the existing park or trail, as an expansion of the existing facility.
 - (10) The site shall have suitable topography and soil conditions for the proposed recreation and/or open space use. No more than fifteen percent (15%) of the site shall be comprised of floodplains, storm water management facilities, and/or slopes exceeding three percent (3%).
 - (11) A landscape plan, prepared by a registered Landscape Architect, shall be submitted for each site. Any unimproved site shall be provided with landscape material and/or ground cover, in accordance with Section 611.05 and 611.06.
 - (12) The site shall be located and designed to conveniently access proximate public utilities (e.g., sewer, water, power, etc.). However, no part of any overhead utility easement, nor any above-ground protrusion of an underground utility, should be permitted in active play areas of the site.
 - (13) No part of the site shall be calculated as part of any required setback, yard, and/or open space for adjoining lots or uses as regulated by the Zoning Ordinance.
- b) For land to be dedicated to Silver Spring Township:
- (1) The Township shall have the right to refuse dedication of lands, in which instances the land shall be owned and maintained by a Community Association for use by residents of the development.
 - (2) The land shall contain a minimum of five acres in area for park or open space area, contiguous in shape with soil conditions and slope suitable for developing recreational facilities.
 - (3) The Township may require that the land is accessible to, and that

the developer extend utilities such as sewer, water and electricity to the site.

- (4) Where the land dedication is intended to be incorporated into the Township trail system, such trail shall be consistent in location, design, dimension and route with the Township *Comprehensive Parks, Recreation and Open Space Plan, Greenway Plan, and/or Official Map*. Trails will be constructed as specified in the *Silver Spring Township Improvements Specifications Manual* as amended, and/or subsequent trail plan adopted by the Township.
 - (5) Land dedicated to the Township shall not contain stormwater facilities serving the development.
 - (6) The cost of improving a trail or walkway is to be provided by the developer in order to accommodate its intended use. This shall not be considered a credit towards a fee in lieu of land dedication.
- c) In special instances, the Township may waive any or all of the preceding design standards. In such instances, the applicant must demonstrate that the public will be better served by some alternate design that would accomplish at least one of the following objectives:
- (1) Protection of important natural resources (e.g., streams, ponds, wetlands, steep slopes, woodlands, unique geologic features, wildlife habitats, aquifer recharge areas, etc.).
 - (2) Protection of important historical and/or archaeological sites.
 - (3) Integration of parks, open spaces and trails throughout the development that link residences with on-site or adjoining parks, schools, or other similar features.

SECTION 5: Article VI, Section 615.03 shall be amended, revised, and replaced as follows:

615.03 Parkland Capital Reserve Fund. Any funds collected as fees-in-lieu of dedication of park, open space and trails shall be deposited in an interest-bearing account. This account shall be separate from other municipal accounts and shall be clearly identified as reserved for providing, acquiring, operating or maintaining park, open space, trails and associated recreational facilities. Interest earned on all monies deposited in such accounts shall become funds of that account.

SECTION 6: Article VI, Section 618.03.4 shall be amended, revised, and replaced as follows:

618.03.4 Mandatory Dedication of Land for Park and Recreation Purposes. The required Greenway land in conservation subdivisions may be used to satisfy the mandatory dedication of land for park and recreation purposes, as required in Section 615, provided that such Greenway land meets all design requirements for park, open space and trails, in Section 615.02.

SECTION 7: In all other respects, Ordinance 95-11, as amended, known as the Silver Spring Township Subdivision and Land Development Ordinance, shall remain as previously enacted and amended.

SECTION 8: All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.


SECTION 9: The provisions of this Ordinance shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of the Ordinance or any other provision, section, article or chapter of the ordinances of Silver Spring Township.

SECTION 10: This Ordinance shall become effective upon adoption.

ENACTED AND ORDAINED this 23rd day of May, 2018.

ATTEST:

**SILVER SPRING TOWNSHIP
BOARD OF SUPERVISORS**



Theresa Eberly, Township Secretary



David R. Lenker, II, Chair