

ORDINANCE NO. 01-2006

AN ORDINANCE OF BETHEL TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, ADOPTING A RECREATION, PARKS & OPEN SPACE PLAN FOR BETHEL TOWNSHIP, BERKS COUNTY, PENNSYLVANIA AND AMENDING THE BETHEL TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, ORDINANCE NO. 1999-3, BY REPEALING AND REPLACING SECTION 5.21, PRIME OPEN SPACE AND RECREATION.

The Board of Supervisors of Bethel Township, County of Berks, Commonwealth of Pennsylvania hereby finds and determines that:

Premises:

1. On July 19, 1999, the Board of Supervisors of Bethel Township enacted the Subdivision and Land Development Ordinance, Ordinance No. 1999-3.
2. On March 14, 2005 the Board of Supervisors of Bethel Township enacted Ordinance No. 2005-07, which created a Township Recreation Board, directed the preparation of a Township recreation plan, and specified the powers and duties of the Board.
3. In accordance with the Ordinance, a Recreation, Parks & Open Space Plan was prepared in April 2006, including proposed Subdivision and Land Development Ordinance Amendments in accordance with the Municipalities Planning Code (MPC).
4. The MPC specifically allows the Subdivision and Land Development Plan to include provisions for open space and recreation considerations when new development occurs.

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by reference, the Bethel Township Board of Supervisors, County of Berks, Commonwealth of Pennsylvania hereby enacts and ordains the following:

Section 1: Adoption of the Recreation, Parks and Open Space Plan

The Recreation, Parks and Open Space Plan for Bethel Township Berks County Pennsylvania, dated April 2006, is hereby adopted as the official Recreation Plan for Bethel Township, County of Berks, Commonwealth of Pennsylvania.

Section 2: Amendment to the Subdivision and Land Development Ordinance

The Bethel Township Subdivision and Land Development Ordinance (SALDO), Ordinance No. 1999-3, enacted July 19, 1999, is hereby amended as follows:

(A) Section 5.21 of the SALDO, titled Prime Open Space and Recreation, is hereby repealed and is replaced by a new section 5.21, titled Prime Open Space and Recreation, as follows:

(1) The SALDO is amended by adding new section 5.21.A, as follows: Pursuant to Section 503 (11) of the Pennsylvania Municipalities Planning Code, the Board of Supervisors of Bethel Township has adopted a Recreation, Parks & Open Space Plan. To implement this plan, all residential subdivisions and land developments shall be provided with park and recreation land, which shall be dedicated to the Township. The subdivider or developer may request that the Township not require the dedication of land, and any such request shall be accompanied by an offer to pay a fee in lieu of dedication of land, computed in accordance with the regulations provided herein, an offer to construct recreational facilities and/or an offer to privately reserve land for park or recreation purposes.

(2) The SALDO is amended by adding new section 5.21.B, as follows: Residential subdivisions or land developments proposing two (2) lots or dwelling units (a residue lot will be considered one the two lots) are exempt from the provisions of Section 5.21.A. However, if exempt lots are later subdivided, and the total number of lots derived from the original parcel of land as existed on the date of adoption of the amendment to this Ordinance containing this section 5.21, is three (3) or more, the provisions of Section 5.21.A. will apply as though the original tract of land was divided simultaneously and the obligation shall be imposed upon the latter lot(s).

(3) The SALDO is amended by adding new section 5.21.C., as follows: A minimum of six-one hundredths (0.06) acre of land shall be reserved for park and/or recreation purposes for each residential lot created for a single family dwelling in a subdivision or land development. A minimum of six-one hundredths (0.06) acre of land shall be reserved for park and/or recreation purposes for each dwelling unit created in a land development contemplating multi-family dwellings. Additionally, improvements to these land areas shall be based upon a minimum of \$250 per dwelling unit proposed, such improvements will be subject to approval by the Township Recreation Board and the Board of Supervisors.

(4) The SALDO is amended by adding new section 5.21.D., as follows: If a fee in lieu of dedication of land is proposed by the subdivider or developer, the fee shall be based on the fair market value of the land required to be dedicated under subsection 5.21.C. above or two thousand dollars (\$2,000.00) per lot or unit, whichever is greater. Payment of all such fees shall be a condition of final plan approval and no plan shall be signed by the Board of Supervisors until such fees are paid, unless the subdivider or developer and the Board of Supervisors agree otherwise in writing. The subdivider or developer shall provide the Board of Supervisors with all the information necessary to determine the fair market value of the whole tract being developed, including, but not limited to, a copy of the agreement of sale if the subdivider or developer has purchased the land within the past two (2) years, or an appraisal of the whole tract being developed conducted by a MAI appraiser acceptable to the Township. The fair market value of one (1) acre shall be computed by dividing the total price for the tract being developed by the number of acres within the tract. The amount to be paid shall be calculated according to the formula: $N \times FMV = \text{Fee}$, where the value of N shall

be determined by multiplying the number of lots or dwelling units by 0.06 and FMV is the fair market value of one (1) acre.

(5) The SALDO is amended by adding new section 5.21.E, as follows: All proposals involving the dedication of land, payment of fees in lieu of dedication, offers to construct recreational facilities, and/or offers to privately reserve land for park and/or recreation purposes, shall be submitted to the Bethel Township Recreation Board for review and comment. As soon as is reasonably possible after receipt of such a proposal by the Township Planning Commission, that Commission shall forward the proposal and any comments or recommendations regarding the proposal to the Bethel Township Recreation Board for its review and comment. The Recreation Board shall have 60 days from the receipt of the proposal from the Planning Commission to provide written comments thereon, which shall be forwarded to both the Township Planning Commission and the Township Board of Supervisors.

(6) The SALDO is amended by adding new section 5.21.F., as follows: The subdivider or developer shall enter into a written agreement with the Township setting forth the fees to be paid, the facilities to be constructed, or the land to be dedicated. All such agreements shall be provided prior to final approval of the plan and shall be satisfactory to the Board of Supervisors.

(7) The SALDO is amended by adding new section 5.21.G., as follows: Where the contribution of fees in lieu of Prime Open Space has been approved by the Board of Supervisors, said fees shall be used and invested in accordance with the Township Recreation, Parks & Open Space Plan and the provisions of the Pennsylvania Municipalities Planning Code.

(8) The SALDO is amended by adding new section 5.21.H., as follows: Where the construction of recreational facilities in lieu of setting aside Prime Open Space has been approved by the Board of Supervisors, said construction shall be in accordance with the Township Recreation, Parks & Open Space Plan and the provisions of the Pennsylvania Municipalities Planning Code. All facilities constructed pursuant to this section, shall be constructed in accordance with current standards established by the National Park Association and, where possible, the Americans with Disabilities Act of 1990, as amended. Playground equipment shall be in compliance with Consumer Product Safety guidelines. Such facilities shall be completed prior to final plan approval or an improvements security shall be deposited with the Township in accordance with the Pennsylvania Municipalities Planning Code and this ordinance. The value of construction to be contributed shall be not less than the amount of monetary contribution that would be required by Section 5.21.D.

(9) The SALDO is amended by adding new section 5.21.I., as follows: All Prime Open Space shall be contiguous, and the Prime Open Space shall be accessible to all lots or units within the development without having to walk in streets (excluding street crosswalks). In all cases, the location and configuration, within the guidelines set forth herein, shall be subject to review and approval by the Township Board of Supervisors. Prime Open Space shall not contain any of the following, unless specifically approved by the Township Board of Supervisors as an integral part of an open space or recreational facility: flood plains,

wetlands, slopes in excess of 8%, stormwater management facilities, road or public utility rights-of-ways or easements, or surface waters.

(10) The SALDO is amended by adding new section 5.21.J., as follows: When the Prime Open Space land required to be dedicated is less than ten (10) acres in size, the Prime Open Space land shall be located in a suitable place on the periphery of the subdivision or land development so a more usable tract will result when additional Prime Open Space is obtained upon development of the adjacent land. The location shall be subject to review and approval by the Township Board of Supervisors.

(11) The SALDO is amended by adding new section 5.21.K., as follows: When public Prime Open Space land exists adjacent to the tract to be subdivided or developed, the Prime Open Space land shall be located to adjoin and enlarge the presently existing Prime Open Space land. The configuration of such land shall be subject to review and approval by the Township Board of Supervisors.

(12) The SALDO is amended by adding new section 5.21.L., as follows: Prime Open Space land shall be accessible to utilities, such as sewer, water, and power that are provided within the subdivision or land development, and if requested by the Township, the subdivider or developer shall extend such utilities to Prime Open Space land. However, nothing in this provision shall require the Township to accept a dedication of utilities.

(13) The SALDO is amended by adding new section 5.21.M., as follows: Trails and linear parks may be developed and dedicated for public use and may be credited towards the park and open space land requirements provided that such trails and linear parks are approved by the Township Board of Supervisors and also meet the following minimum standards:

- a) Dedications of land shall be a minimum width of fifty feet (50'), and if to be dedicated to Bethel Township, must be approved by the Bethel Township Board of Supervisors;
- b) The trail or linear park shall conform to the Bethel Township Recreation, Parks & Open Space Plan, any Berks County wide trail and recreation master plan and appropriate Bethel Township and county comprehensive plans;
- c) The minimum right of way with an easement containing a trail which crosses private land shall be ten feet (10'). Easements may be dedicated to Bethel Township, Berks County, or other organizations which, in the judgment of the Bethel Township Board of Supervisors, is appropriate. However, nothing in this provision shall require the Township to accept a dedication of a right of way. In all cases, such easements must provide for public use at all reasonable times;
- d) Trails shall have a vertical clearance of no less than ten feet (10'); and
- e) The width of the trail surface may vary depending on the type of use to be accommodated, but in no case shall width be less than five feet (5').

(14) The SALDO is amended by adding new section 5.21.N., as follows: Waiver requests from any portion or subsection of Section 5.21 shall be subject to review and approval or denial by the Township Recreation Board.

Section 3. Ratification and Repeals

All Ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith. Specifically, section 5.21, titled Prime Open Space and Recreation, of the SALDO, Ordinance 1999-3, enacted July 19, 1999, is hereby repealed.

Except for the modifications and/or enactments specifically stated in this Ordinance, all of the provisions of the SALDO are hereby ratified and confirmed.

Section 4. Severability

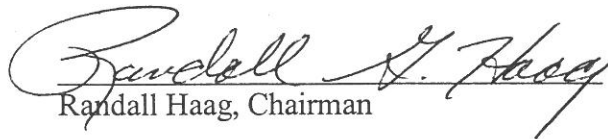
The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not effect or impair the remaining provisions or parts thereof of this Ordinance.

Section 5. Effective Date

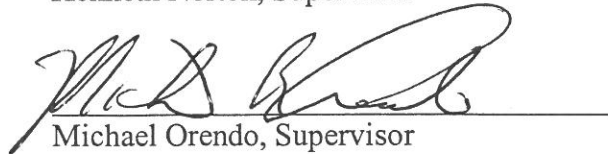
This Ordinance shall become effective five days after its adoption.

ORDAINED and ENACTED as an Ordinance by the Board of Supervisors of Bethel Township, Berks County, Pennsylvania, in lawful session duly assembled this 5 day of June, 2006.

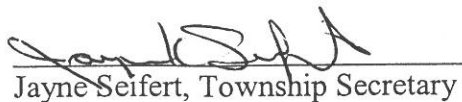
BOARD OF SUPERVISORS OF BETHEL
TOWNSHIP, BERKS COUNTY, PA


Randall Haag, Chairman

Absent
Kenneth Norton, Supervisor


Michael Orendo, Supervisor

Attest:


Jayne Seifert, Township Secretary

