Chapter 12.44 IMPROVEMENT STANDARDS

Section 12.44.140 Dedication of land for park and recreational purposes.

The subdivider shall provide for adequate and appropriate recreational facilities for the subdivision by the dedication of land in the subdivision or by the payment of fees in lieu thereof, in accordance with the conditions and requirements of this section.

A. Amount of area to be dedicated. Where there are fifty or more lots to be established in the subdivision, and where land therein can be properly located for public recreational facilities in accordance with the general plan, the subdivider shall dedicate an area for such purposes on the basis of two acres dedicated for each fifty acres within the subdivision to be developed.

B. Payment of fees in lieu of dedication. Where there are less than fifty lots in the subdivision, or where the subdivision is of fifty lots or more but land within the subdivision cannot be located on a part of the subdivision as outlined in the general plan, the subdivider shall, in lieu of dedication of land, pay a fee in a sum equivalent to the following formula: Average number in household times recreational standard (4.50 acres per 1,000 population) times fair market value equals amount to be paid per family unit. Minimum requirements shall be as follows:

1. Single family and duplex areas: Three times 0.0045 times fair market value.
2. Multiple family areas: Two and one-half times 0.0045 times fair market value.

If the subdivider can show that the average household size as disclosed by the most recent available federal census or a census taken pursuant to Section 40200 of the Government Code, et seq., is smaller than the numbers used in sub-paragraphs 1 or 2, as the case may be, he may require that the fee be calculated based upon average household size indicated in the applicable census.

C. Amount of Fee. Where a fee is required to be paid in lieu of land dedication, the amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required to be dedicated pursuant to subsection B. The fair market value shall be determined by the planning director at the time of the filing of the tentative map; provided, however, that the city council may by resolution establish a fee per dwelling unit to be constructed based upon an estimate of current land values of residential property within the city, and such fee shall be determinative of the fee to be paid by the subdivider in lieu of dedication pursuant to this section.

D. Private Open Space. Where private open space for park and recreational purposes is provided in a proposed subdivision and such space is proposed to be privately owned and maintained by the future residents thereof, credit may be given against the requirement of land dedication or payment of fees in lieu thereof if the agency approving the tentative map or tentative parcel map finds that it is in the public interest to do so and that all of the following standards are met:

1. That yards, court areas, setbacks, and other open areas required to be maintained by the zoning and building ordinances shall not be included in the computation of such private open space; and
2. That the private ownership and maintenance of the open space is adequately provided by recorded written agreement, conveyance or restrictions; and
3. 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 property and cannot be defeated or eliminated without the consent of the city; and
4. That the proposed private open space is reasonably adapted for use for park and recreational purposes taking into consideration such factors as size, shape, topography, geography, access, and location; and
5. That facilities proposed for open space are in substantial accord with the provisions of the general plan; and
6. That the open space for which credit is given is a minimum of three acres and provides all of the local park basic elements listed below, or a combination of such and other recreational park needs of the future residents of the area:

Acres

a. Children's play apparatus area 0.50 to 0.75
b. Landscape park-like and quiet areas: 0.50 to 1.00
c. Family picnic area: 0.25 to 0.75
d. Game court area: 0.25 to 0.50
e. Turf playfield: 1.00 to 3.00

Where credits are given, the agency shall make written findings that the above standards are met.

Planned developments and real estate developments, as defined in Sections 11003 and 11003.1 of the Business and Professions Code shall be eligible to receive such credit for the value of private open space if the reviewing agency finds that the development meets the foregoing standards.

E. Improvements to Dedicated Land. If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by this section.

F. Timing of Determination and Payment.

1. At the time of approval of the tentative tract or parcel map, the approving agency shall determine pursuant to subsections A and B the land to be dedicated and/or the fees to be paid by the subdivider. At the time of the filing of the final tract map or final parcel map, the subdivider shall dedicate the land or pay the fees as previously determined, except as provided in subsection H.

2. Open space covenants for private park or recreation facilities shall be submitted to the city upon the filing of the final tract or parcel map and shall be recorded contemporaneously with such map.

3. At the time of approval of the final map, the approving agency of the final map shall specify when development of the park and recreational facilities shall be commenced.

G. Commitment of Fees Collected. Any fees collected under this section shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

H. Exemptions from this Section. The provisions of this section shall not apply to the following:

1. Subdivisions containing less than five parcels and not used for residential purposes; provided, however, that a condition of approval may be attached to the approval of a parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years, the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

2. Industrial or commercial subdivisions.

3. Condominium projects or stock cooperatives which consist of the division of airspace in an existing apartment building which is more than five years old when no dwelling units are added.

Part 12

Parks and Recreational Areas

§1201. Definitions.

ACTIVE RECREATION - any activity that requires some physical exertion on the part of the participant, such as athletics.

ACTIVE RECREATION AREA - any land which is set aside for use as active recreational, such as playfields, playgrounds, skating rinks, swimming pools and tennis courts.

BUILDING AREA - the area occupied by buildings in any subdivision or land development. It shall not include parking lots, sidewalks, or other non-building areas.

PASSIVE RECREATION - any activity that requires little or no physical exertion on the part of the participant, such as arts and crafts, nature study and board games.

PASSIVE RECREATION AREA - any area developed in such a manner as to be conducive of those activities that fall within the range of passive recreation, such as nature areas, craft areas, meeting areas, sitting areas, walkways, sunbathing areas, ponds and lakes, and picnicking areas.

RECREATION - any activity, whether structured or not, which individuals voluntarily engage in during their leisure.

(Ord. 1986-0-148, 1/20/1986, §1)

§1202. Purpose. All subdivision or land development plans submitted after the effective date of this Part 12 shall provide for suitable and adequate recreation as more particularly set forth in this Part 2 in order to:

A. Insure acquisition, development and maintenance of adequate recreation areas and facilities to serve the people that work and live in the Township.

B. Maintain compliance with recreation standards as recommended by the Newtown Park and Recreation Board and as approved by the Newtown Township Board of Supervisors.

C. Coordinate existing recreational areas with future recreational areas.

D. Enhance existing recreational areas and facilities to enable them to be supportive of future development.

E. Provide for the orderly acquisition and development of additional park and recreation areas.

(Ord. 1986-0-148, 1/20/1986, §2)

§1203. Dedication of Land Suitable for Park and Recreation Use to the Township.

1. The developer or applicant shall dedicate land suitable for park or recreation use to Newtown Township, unless one (1) of the alternatives set

forth in §1207 of this Part is approved by the Township. The land shall not be dedicated until the completion of the necessary and agreed upon improvements have been completed. All improvements shall be completed prior to fifty (50) percent of the homes in the subdivision being completed.

2. The amount and location of land to be dedicated to the Township shall bear a reasonable relationship to the use of the park and recreational facilities by future residents of Newtown Township. At a minimum, the following criteria for dedication of park and recreation areas to the Township shall apply:

A. Residential Subdivision or Land Development. The amount of land to be dedicated for park and recreational areas in residential subdivision or land developments of three (3) or more individual dwelling units, whether they are single family dwellings or contained within a multi-family dwelling, shall be as follows:

(1) Single Family Detached or Two-Family Developments. In the case of subdivisions of single family detached or two-family dwellings, the developer shall dedicate a minimum of three thousand (3,000) square feet per dwelling unit.

(2) Multi-Family Developments. In multi-family residential developments, the developer shall dedicate a minimum of three thousand (3,000) square feet per residential dwelling unit.

(3) Conversions. In the event that any building is converted to multi-family use, it will be subject to the multi-family regulations.

B. Nonresidential Subdivision or Land Development. The amount of land to be dedicated for park and recreational areas in a nonresidential subdivision or land development shall be three thousand (3,000) square feet per four thousand (4,000) square feet of building area. For example, a ten thousand (10,000) square foot building will require seventy-five hundred (7,500) square feet of park and recreation area to be dedicated to the Township. The types of park and recreational areas that shall be deemed suitable for nonresidential subdivision or land developments shall include, but not be limited to:

(1) Playing fields (baseball field, soccer field or the like designed for active recreation, constructed pursuant to the minimum standards of the regulatory authority, such as Township little league).

(2) Tennis courts.

(3) Tot lots (small playground especially designed for young children).

(4) Basketball courts.

(5) Paddle tennis courts.

(6) Jogging paths with exercise stations.

C. The land dedicated to the Township for park and recreation purposes need not be a part of the land development or subdivision. It may be located on a separate parcel of land, provided that the Board of Supervisors determines in its sole discretion that the land being dedicated is convenient to the subdivision or land development. In addition, the developer, with the approval of the Township, may

construct park and recreation facilities at the Township facilities or the facilities of another developer to satisfy the requirements of this Section. Park and recreation facilities which are available to all Township residents as opposed to facilities which are available only to the residents of a particular subdivision or land development are encouraged.

D. No more than twenty-five (25) percent of the park and recreation space may consist of floodplain areas or areas with slopes in excess of eight (8) percent. Floodplain and steep slopes may not be used for active recreation.

E. The land being dedicated for active recreation must be suitable for active recreation by reason of its size, shape, location and topography.

F. The land being dedicated for passive recreation must be suitable by reason of its size, shape, location and topography for hiking, picnicking and similar passive recreation.

G. In the event of a conflict between the Joint Municipal Zoning Ordinance and this Part as to the amount of recreational areas which must be dedicated, this Part shall control.

3. When land is being dedicated, notwithstanding the foregoing, the land which is dedicated must meet the minimum lot size for the district within which it is being dedicated.

4. Any land dedicated to the Township shall be used only for the purpose of providing park and recreational facilities.

5. When land is dedicated, acceptance by the Township shall be by means of a signed resolution to which a property description of the dedicated recreational area shall be attached.

6. Where a developer dedicates land, the acquisition value of the land plus any improvements being placed on the land for park and recreation purposes must equal or exceed the fee in lieu of dedication as established by resolution of the Board of Supervisors from time to time. If the value of the fee in lieu of dedication is not met or exceeded, the developer must supply the balance of his obligation to supply park and recreation facilities by one (1) or more the alternatives set forth in §1207, below.

(Ord. 1986-0-148, 1/20/1986, §3; as amended by Ord. 1987-0-172, 12/12/1987, §1; and by Ord. 97-0-12, 8/13/1997, §1(A))

§1204. Criteria for Locating Recreation Areas. The Planning Commission and the Board of Supervisors in exercising their duties regarding the review of subdivision and land development plans shall consider the recommendations of the Park and Open Space Committee and Recreation Board as well as the following criteria in determining whether to approve the proposed recreation plan (which approval shall include both the use and location of the proposed park and recreational area in an applicant's subdivision or land development plan):

A. The land being dedicated shall be easily and safety accessible. For a park being dedicated to the Township, the proposed park and recreational area shall be located in the front of the subdivision, with direct access onto the external street to which the subdivision has access. If the land being dedicated is being dedicated to a homeowners

association, it may be located in the interior of the subdivision in a location which is convenient to all of the residents of the subdivision.

B. The geometry of the land being dedicated shall be as close to square as is reasonably possible.

C. The land being dedicated shall be a single contiguous parcel.

D. The land being dedicated shall have suitable topography and soil conditions for use and development as a recreation area.

E. The land being dedicated shall be directly accessible to essential utilities, such as sewer, water and power. If water, sewer and power is not immediately to the proposed site, the developer shall provide water, sewer and power to the site.

F. The land being dedicated shall be provided with off street parking to serve the proposed facilities.

G. Sidewalks and/or a trail must be provided to the land being dedicated to allow all residents of the subdivision to have access to the proposed park and recreation facilities.

H. The land being dedicated shall be in conformance with the Township's comprehensive park and recreation plan.

I. Where the proposed subdivision or land development is located adjacent to existing park and recreation facilities, the land being dedicated shall be adjacent to the existing park and recreation facilities and shall be contiguous thereto. The land being dedicated shall be laid out to maximize the usefulness of the combined facilities as a single unified park and recreation facility.

(Ord. 1986-0-148, 1/20/1986, §4; as amended by Ord. 97-0-12, 8/13/1997, §1(B))

§1205. Review by the Parks and Recreation Board.

1. At the same time that a subdivision plan, whether preliminary or final, is submitted to the Township, a recreation plan shall be submitted to the Township Park and Recreation Board, who shall review the plan (both to use and location) and make recommendations thereon in writing to the Planning Commission and the Board of Supervisors.

2. Upon recommendation of the Park and Recreation Board, the Board of Supervisors may waive or alter any provision of this Part 12.

3. In certain instances the Park and Recreation Board may recommend to the Planning Commission and the Board of Supervisors that it is impractical because of size, shape, location, access, topography, drainage or other physical features of the land that there is no land within the proposed subdivision which is practical for dedication to the public which can be set aside for recreational uses because of size, access, topography or other physical characteristics. In that event the developer shall proceed in accordance with §1207 of this Part 12.

(Ord. 1986-0-148, 1/20/1986, §5)

§1206. Alternatives to Dedication of Land.

1. Fee in Lieu of Dedication.

A. Where the Board of Supervisors determines that because of the size, shape, location, access, topography or other physical features of the land or any other need of the Township, that it is impractical to dedicate land to the Township for a public park as required by this Part, the Supervisors shall required dedication to the homeowners association for the exclusive use of the residents of the subdivision in which it is located and if the Board of Supervisors determines that it is impractical to dedicate land to either the Township of the homeowners association, the Supervisors shall require a payment of a fee in lieu of dedication of such land from the developer. The calculation of the fee in lieu of dedication shall be set forth in detail in a resolution and shall bear a reasonable relationship to the use of the park and recreation facilities by future inhabitants of Newtown Township.

B. Any fee in lieu of dedication which is collected by the Township shall be used only for the purpose of providing park and recreational facilities within Newtown Township.

C. A fee authorized under this subsection shall, upon its receipt by the Township, be deposited in an interest bearing account, designated the Newtown Township Park and Recreation Fund. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only on specific recreation facilities approved by the Board of Supervisors.

D. Upon request of any person who paid fees under this subsection, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, if the Township had failed to utilize the fee paid for recreation purposes within three (3) years from the date such fee was paid unless return of the fee has been waived by agreement between the developer and the Township.

2. Combination.

A. With the approval of the Township, the developer may utilize any combination of the aforementioned techniques to satisfy his park and recreation obligation. However, in no circumstances shall the total value of the acquisition of land, improvements thereon, dedicated land, or reserved land fail to meet or exceed the value of the fee in lieu of dedication established by resolution of the Board of Supervisors from time to time.

(Ord. 1986-0-148, 1/20/1986, §7; as amended by Ord. 1987-0-172, 12/12/1987, §2; and by Ord. 97-0-12, 8/13/1997, §1(D))

§1207. Recreation Plan. The Board of Supervisors have adopted a formal recreation plan for Newtown Township by resolution. Future park and recreational facilities proposed within Newtown Township shall be in accordance with principles and standards contained in the plan. The plan may be amended from time to time by resolution of the Board of Supervisors. (Ord. 1986-0-148, 1/20/1986, §8; as added by Ord. 97-0-12, 8/13/1997, §1(E))