

ORDINANCE 2012-17

AN ORDINANCE AMENDING ARTICLE III, SECTION 302,
AND ARTICLE VIII, SECTIONS 809 AND 810 OF THE
MANHEIM TOWNSHIP SUBDIVISION AND LAND
DEVELOPMENT ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Commissioners ("Board") of
Manheim Township ("Township"), Lancaster County, Pennsylvania, as follows:

SECTION 1. ARTICLE III, SECTION 302, of the Manheim Township Subdivision and
Land Development Ordinance ("SALDO") is hereby amended by insertion of the following
definitions of defined terms, and, where applicable, insertion in substitution of any previous
definitions of the same defined terms:

BIKE PATH. A pathway that is exclusively used by bicyclists, where a
separate, parallel path is provided for pedestrians and other wheeled users.
Most pathways are shared between bicyclists and other users. See non-
motorized paths.

COMPREHENSIVE PLAN. The COMPREHENSIVE PLAN for
Manheim TOWNSHIP, March 2010, and any amendments thereto,
indicating the general locations recommended for circulation facilities,
community IMPROVEMENTS and land uses.

GREENWAYS. Linear corridors of OPEN SPACE which generally
correspond to or link major river or stream corridors (including adjoining
FLOODPLAIN, RIPARIAN BUFFERS, and steep slope areas), old railways
or ridge tops, and are intended to function as part of an integrated system or
network for a variety of purposes, including protecting natural, cultural and
scenic resources, providing recreational benefits, enhancing the quality of
life in neighborhoods, and stimulating economic development opportunities.
The base Trail & Greenway System for Manheim Township is shown on the
Trail & Greenway System Map, dated November 2, 2011 and is part of the
Manheim Township Comprehensive Recreation, Park, Greenways and Open
Space Plan.

LINEAR TRAIL. A NON-MOTORIZED pathway, separated from the
road, designed for recreational activities like walking, biking and
horseback riding. See NON-MOTORIZED PATH.

NON-MOTORIZED PATH. A path intended for use by pedestrian and
bicyclist, but not by any motorized vehicles. It is a path that runs parallel
to the STREET but is separated from it.

RIPARIAN BUFFER. Undisturbed riparian land adjacent to a natural WATERCOURSE and other bodies of water for the purpose of stabilizing banks, filtering pollutants from runoff and for providing habitat for a variety of wildlife. This is not intended to include man-made swales, infiltration beds, or detention or retention facilities utilized solely for stormwater management from the project site.

WALKWAY. A paved pedestrian path which is not aligned with vehicular circulation patterns, but which is located on a LOT along proposed or existing pedestrian patterns.

SECTION 2. ARTICLE VIII, SECTION 809 AND SECTION 810 of the SALDO are hereby amended by insertion of the following in substitution thereof:

SECTION 809. PARK AND RECREATION DEDICATION AND FEES IN LIEU OF DEDICATION

1. Purpose – The parks and recreation system enriches the community through the conservation of natural resources, recreation opportunities that support active healthy lifestyles, and connections that bring together people, places and our heritage. The purpose of this Section is to implement Section 503 (11) of the MUNICIPALITIES PLANNING CODE and the findings and recommendations found in the Manheim Township Comprehensive Plan of 2010, the Manheim Township Recreation, Park, Greenways & Open Space Plan of 2011 and the Lancaster Intermunicipal Committee Regional Parks and Open Space Plan, or any corresponding future laws or plans whereby this Section sets forth the regulations to (1) acquire parkland through the mandatory dedication of land when residential or mixed use development is proposed or expanded (2) secure parkland for the protection of important OPEN SPACES and natural resources through acquisition of conservation and access easements (3) expand existing park sites through acquisition of contiguous acreage where possible and (4), when appropriate, collect a fee-in-lieu of dedication in order to help accomplish the following:
 - A. Provide for adequate recreational areas and facilities to serve the residents of the TOWNSHIP.
 - B. Provide for larger more usable recreational areas.
 - C. Protect natural resources and environmentally sensitive areas.

- D. Provide residents the opportunity to engage in a variety of active and passive recreational and leisure activities where residents can have fun, experience nature, socialize and exercise in harmony with nature and the environment.
- E. Provide recreational activities that include parks, playgrounds, playing fields, swimming pools, golf courses, hiking and biking trails, picnic areas, scenic outlooks, and landscaped plazas, GREENWAYS and OPEN SPACES.
- F. Provide interconnectivity to link OPEN SPACE within a development, to link OPEN SPACE between developments, to link OPEN SPACE with our neighboring municipalities and to create over time, a continuous system of OPEN SPACE that will add great value to the development and to the community.

These requirements are intended primarily for recreation purposes rather than environmental protection purposes; however, it is not the intent to prohibit parks, OPEN SPACE or recreation facilities in environmentally sensitive areas if compatible with the primary recreation goals of this Section.

- 2. The provisions herein shall apply to subdivision and land development proposals that would create new or expand existing residential and mixed use development.
- 3. The herein provisions are in addition to any clustering provisions or COMMON OPEN SPACE requirements applicable to Planned Residential Developments, Planned Commercial Developments and T-5 Overlay – Oregon Village Overlay developments that are outlined in the Manheim Township Zoning Ordinance.
- 4. The herein provisions shall not apply to the following:
 - A. Any residential subdivision or land development project or any mixed use subdivision or land development project with a residential component which is protected by the MUNICIPALITIES PLANNING CODE from these intervening ordinance amendments.
 - B. Any residential subdivision or land development project or any mixed use subdivision or land development project with a residential component that contains less than one hundred (100) dwelling units. However, the fee-in-lieu of dedication shall

apply as specified in Section 809.8. If the APPLICANT or DEVELOPER is unwilling to pay the applicable fee-in-lieu of dedication, then this exemption shall not apply and land must be dedicated to the TOWNSHIP as otherwise required by this ORDINANCE.

- C. Any lot add-on subdivision plans or lot line adjustments plans where no new residential or mixed use development is proposed.
5. Amount - The TOWNSHIP shall calculate the amount of land needed for park, playground, OPEN SPACE or other recreational use as follows:
- A. Residential or Mixed Uses
 - (1) Verifying the number of DWELLING units which are proposed to be constructed or LOTS which are to be subdivided as shown on the FINAL PLAN application;
 - (2) For residential or mixed use SUBDIVISIONS a minimum of 0.04 acres or approximately 1,742.4 square feet of land for each LOT shall be dedicated for recreational use.
 - (3) For residential or mixed use LAND DEVELOPMENT, a minimum 0.04 acres or approximately 1,742.4 square feet of land for each DWELLING unit shall be dedicated for recreational use.
6. Characteristics - Land proposed to be dedicated for park and recreation purposes shall not be accepted unless the COMMISSIONERS determine that it meets the following standards:
- A. The OPEN SPACE/recreational area shall provide access to existing OPEN SPACE and recreational uses and shall be conveniently accessible to residents throughout the development.
 - B. The OPEN SPACE/recreational area may be used to protect environmentally sensitive lands or resources with approval from the COMMISSIONERS.

- C. Minimum Size. All land proposed to be dedicated for park and recreation purposes shall be of sufficient size for the proposed active or passive recreation uses.
- D. Slope. At least half of any land area proposed for park and recreation purposes shall have a slope of less than ten (10) percent and shall be appropriate for active recreation uses. Steep slopes of ten (10) percent or greater, may be accepted if they are suitable for passive recreation.
- E. Floodplain. At least half of any land area proposed to be dedicated for park and recreation purposes shall be above the 100 year flood elevation and shall be appropriate for active recreation uses. Up to fifty (50) percent of land below the 100-year flood elevation may be accepted if it is suitable for passive recreation activities.
- F. WETLANDS. Some types of WETLANDS may also be applied towards an OPEN SPACE/recreation requirement, so long as no more than twenty-five (25) percent of the dedicated area is composed of WETLANDS.
- G. Accessibility and Usability. Land shall be usable, accessible to the development required to dedicate the land and to the general public for active or passive recreation activities. No public street shall traverse the recreational area.
- H. Applicants designing and developing public OPEN SPACE and recreation areas shall design such facilities in accordance with the standards established by the National Recreation and Park Association or other similar standards and provide evidence as to how these standards were incorporated into the reservation and design of the public OPEN SPACE and recreation areas.
- I. Sites for public use shall be easily accessible to essential utilities, such as public water, public sewer and electric.
- J. Land for dedication shall not contain stormwater management facilities.

- K. Land shall be configured to serve the residents adequately and conveniently.
- L. If adjacent property to the subject parcel is undeveloped, the COMMISSIONERS may require that recreation areas for the subject development be provided at the property boundary of the development so that additional lands for park and recreational purposes may be added to the lands in the future when the adjacent property is developed.
- M. If adjacent property to the subject parcel is developed and recreation areas are provided at the boundary of the previously developed property, the COMMISSIONERS may require that recreation areas for the subject property be provided at the property boundary adjacent to the existing recreational land.
- N. Pedestrian connections shall be provided from the subject property to adjacent parks, schools, recreational facilities, GREENWAYS, neighborhoods, shopping areas, town centers, public facilities and other destinations.
- O. All publicly dedicated OPEN SPACE and recreational facilities shall be Americans with Disabilities Act compliant.

7. Private Reservation of Land or Construction of Recreational Facilities in lieu of Dedication - In lieu of dedicating land, a developer may voluntarily agree with the consent of the TOWNSHIP to construct recreational facilities or reserve private land as COMMON OPEN SPACE, subject to the standards of this subsection.

- A. Construction of Recreational Facilities.
 - (1) Character of Facilities. A developer may construct any facilities identified in the Manheim Township Recreation, Park, Greenways and Open Space Plan or as approved by the COMMISSIONERS.
 - (2) Accessibility. Any recreation facility shall be accessible to residents of the subdivision or development and other members of the general public.

B. Reservation of Private OPEN SPACE.

- (1) Amount. The amount of land required to be dedicated under Section 809.5, above, shall be reserved as private OPEN SPACE.
- (2) Dimensions and Character. The amount, dimensions and character of the reserved OPEN SPACE shall meet the standards for dedicated OPEN SPACE, as set forth in Subsection 809.6, above.
- (3) Accessibility. Private OPEN SPACE shall consist of land or water within the site, designed and intended for the use or enjoyment of residents of the subdivision or development.
- (4) Ownership. Ownership shall be provided in accordance with Section 2215.
OWNERSHIP OF COMMON OPEN SPACE of the Manheim Township Zoning Ordinance or any corresponding future section of the Manheim Township Zoning Ordinance.
- (5) Maintenance
 - (a) Maintenance of OPEN SPACE areas intended to remain in a natural condition is limited to removal of litter, dead trees, brush and plant materials. Natural WATERCOURSES are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter FLOODPLAIN levels.
 - (b) Trees, shrubs and other living vegetation in landscaped areas shall be properly pruned, kept in a neat appearance, and removed and replaced if dead.
 - (c) Recreation facilities and equipment shall be kept in good repair.

Concrete or asphalt surfaces shall be repaired to eliminate cracks, potholes or other potential hazards to park users.

- (d) Sidewalks, bike lanes, and other pathways shall be maintained in a clean and safe condition, free of cracks, chuck holes, glass, debris and other potential hazards to users.
- (e) In the event that any private owner of OPEN SPACE fails to maintain the OPEN SPACE according to the standards of this section, the TOWNSHIP may, following reasonable notice, demand that the maintenance deficiency be corrected or enter the OPEN SPACE to maintain it. The cost of such maintenance shall be charged to those persons having primary responsibility for maintenance of the OPEN SPACE and, in default of such payment, the TOWNSHIP may cause a municipal lien to be imposed upon such OPEN SPACE.

8. Fees in Lieu of Land Dedication.

A. In lieu of dedicating land, a developer may agree with the consent of the TOWNSHIP to pay fees-in-lieu of land dedication, subject to the standards of this subsection.

(1) Amount. The amount of the fee shall be equal to the fair market value of land based on the unimproved land value.

(a) The amount of the fee in lieu of payment, shall represent the fair market value of the land required to be dedicated as specified in Section 809.5, above.

(b) The APPLICANT shall provide the TOWNSHIP with all information necessary to determine the fair

market value of the land, including, but not limited to, the following:

- (i) If the APPLICANT is the equitable owner, or purchased the land in fee simple less than two (2) years prior to the Preliminary or Final Plan submission, a copy of the agreement of sale or real estate transfer tax affidavit of value.
 - (ii) If the APPLICANT is the equitable owner, or purchased the land in fee simple more than two (2) years prior to the Preliminary or Final Plan submission, an opinion of value of the property by a state certified appraiser acceptable to the TOWNSHIP.
- (c) The fair market value shall be computed by dividing the total price for the tract by the number of acres within the tract and then multiplying that number by the amount of land required to be dedicated.
- (d) Any APPLICANT aggrieved by the fee established by the TOWNSHIP shall have the right to secure a second opinion of value of the property by a state certified appraiser acceptable to the TOWNSHIP. The two (2) estimated values shall be averaged, with the result being the amount upon which the fee will be based.
- (2) Timing of Payment. The fee-in-lieu of dedication

shall be paid to the TOWNSHIP in one lump sum prior to the recording of the FINAL PLAN.

- (3) Earmarking. All monies paid to the TOWNSHIP in this manner shall be placed in an interest bearing-account as provided by law, which shall clearly identify the facility for which the fee was collected. Interest earned on the account shall become part of that account. Fees collected shall be expended only in properly allocable portions of the cost incurred to construct the specific recreation facilities for which the funds were collected.
- (4) Use of Funds. All fee-in-lieu of dedication payments received pursuant to this Section shall be used solely and exclusively for the acquisition of land for parks, playground, OPEN SPACE or other recreational sites and the CONSTRUCTION of IMPROVEMENTS thereon, and for costs incidental and ancillary to such purposes, including, but not necessarily limited to planning, engineering, and design of the park and IMPROVEMENTS, utility relocation, provision of pedestrian and/or vehicular ACCESS and purchase of park equipment. Payments received pursuant to this Section shall only be used for land or IMPROVEMENTS specifically included in the Manheim Township Recreation, Park, Greenways and Open Space Plan and accessible to the DEVELOPMENT.
- (5) Refunds. Upon request of any person who paid any fee-in-lieu of dedication, the TOWNSHIP shall refund such fee-in-lieu of dedication, plus interest accrued in accordance with the MUNICIPALITIES PLANNING CODE if a timely written claim therefor is filed.
- (6) Waiver. An APPLICANT, DEVELOPER or other person paying any fee under this Section may waive any right to refund the fee in whole or in part, any limitations on the use of the fee, the time within which the fee must be utilized or any other requirement pertaining to the payment and use of fees-in-lieu of dedication.

SECTION 810. GREENWAYS/LINEAR TRAILS

1. Purpose - The establishment of GREENWAYS and LINEAR TRAILS provide an important means to accomplish the following:
 - A. Implement the findings and recommendations found in the Manheim Township Comprehensive Plan of 2010, the Manheim Township Recreation, Park, Greenways & Open Space Plan of 2011 and the Lancaster Inter-Municipal Committee Regional Parks and Open Space Plan.
 - B. Conservation of environmentally sensitive lands and natural resource areas.
 - C. Preservation of vegetation and wildlife habitat.
 - D. Connection between parks, schools, recreational facilities, GREENWAYS, neighborhoods, shopping areas, town centers, public facilities and other destinations.
 - E. Connection between OPEN SPACE and recreation areas in neighboring municipalities.
 - F. Coordination with neighboring municipalities, Lancaster Inter-Municipal Committee and Lancaster County regarding regional GREENWAYS and other LINEAR TRAILS opportunities.
2. The establishment of GREENWAYS and LINEAR TRAILS which are available for public use also provide a variety of recreational and educational benefits. LINEAR TRAILS for walking, hiking, biking, and equestrian use, whether located within GREENWAYS or in more urban locations, are important facilities for recreation as well as for non-motorized transportation. Both GREENWAYS and LINEAR TRAILS must occupy continuous, linear land corridors and cannot be effectively contained within individual parcels of land. The purpose of this Section is therefore to provide that land which is delineated as GREENWAYS or LINEAR TRAILS in the adopted Manheim Township Comprehensive Plan of 2010, Manheim Township Recreation, Park, Greenways and Open Space Plan of 2011 or on an official map of Manheim Township, be dedicated or reserved for such use when land is subdivided or developed.
3. Dedication or Reservation of Proposed GREENWAYS and LINEAR TRAILS - The COMMISSIONERS may require as a condition of final plan approval the dedication, reservation and/or improvement of LINEAR TRAILS and GREENWAYS which

traverse a proposed subdivision or land development. The land and improvements required by this Section may be credited pro tanto against, but does not replace, the requirements of Section 809 of this ORDINANCE for the provision of dedication of OPEN SPACE, recreational facilities, and OPEN SPACE amenities in residential and mixed use subdivisions and land developments, or the payment of fee-in-lieu thereof provided:

- A. That the land offered for dedication, reservation and/or improvement is designated as a LINEAR TRAIL or GREENWAY on an adopted Manheim Township Comprehensive Plan, Manheim Township Recreation, Park, Greenways and Open Space Plan or official map of Manheim Township.
 - B. That ownership of the land for GREENWAYS and LINEAR TRAILS not publicly dedicated is established and is consistent with Section 2215. OWNERSHIP OF COMMON OPEN SPACE, of the Manheim Township Zoning Ordinance.
 - C. The agreement addressing ownership responsibilities shall also clearly define the maintenance responsibilities.
 - D. Any LINEAR TRAIL intended for dedication to the TOWNSHIP shall be designed in accordance with TOWNSHIP standards.
 - E. Any GREENWAY whether intended for dedication or intended for private reservation shall contain a vegetated riparian buffer consisting primarily of native species.
 - F. The minimum width of an easement containing a LINEAR TRAIL which crosses private land is twenty (20) feet. The minimum width of an easement containing a GREENWAY shall be dependent on the WATERCOURSE.
4. Limits on Requirement - The TOWNSHIP shall not require the dedication or reservation of land for GREENWAYS or LINEAR TRAILS which exceeds the requirements of Section 809 of this ORDINANCE for the provision of OPEN SPACE in residential and mixed use developments which are applicable to the property being developed.

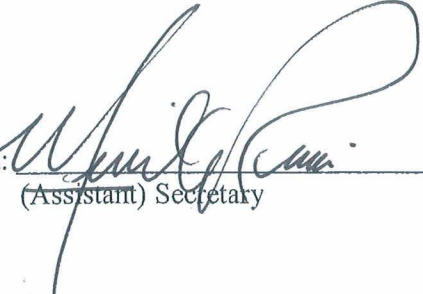
Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued, or any dedication of land or the payment of any fees-in-lieu thereof which was required to be made, or any cause or causes of action existing prior to the enactment of this Ordinance.

SECTION 3. The provisions of this Ordinance are severable, and if any section, sentence, clause, part of provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, any such decision of such court shall not affect or impair the remaining sections, sentences, clauses, parts of provisions of this Ordinance; and it is hereby declared to be the intention of the Board of Commissioners that this Ordinance would have been enacted as if such illegal, invalid or unconstitutional section, sentence, clause, part of provision had not been included herein.

SECTION 4. All parts, sections, subsections, and provisions of the SALDO, except as specifically hereby amended, shall remain in force and effect as heretofore enacted.

SECTION 5. This Ordinance shall become effective upon enactment.

DULY ENACTED AND ORDAINED this 26th day of November, 2012, by the Board of Commissioners of the Township of Manheim.

Attest: 
(Assistant) Secretary

TOWNSHIP OF MANHEIM

By: 
(Vice) President, Board of Commissioners