



**TOWNSHIP OF SOUTH FAYETTE
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 01 OF 2021

AN ORDINANCE OF THE TOWNSHIP OF SOUTH FAYETTE, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 240 ZONING, ARTICLE XIV OPEN SPACE DESIGN OPTION, SECTION 240-88 AREA AND BULK REGULATIONS SUBSECTION (B) (10) OF THE SOUTH FAYETTE CODE TO PROVIDE THE BOARD OF COMMISSIONERS WITH DISCRETION BY CONDITIONAL USE APPROVAL TO PERMIT MODIFICATION OR WAIVER OF ANY OF THE ELIGIBILITY REQUIREMENTS, STANDARDS OR REGULATIONS SET FORTH IN ARTICLE XIV OPEN SPACE DESIGN OPTION LIMITED TO PROPERTIES LOCATED IN THE R-2 AND R-3 ZONING DISTRICTS.

WHEREAS, the Board of Commissioners of the Township of South Fayette has determined that it is appropriate and necessary to amend the provisions of Article XIV Open Space Design Option, Section 240-88 Area and Bulk regulations, subsection (B) (10) of the Township's Zoning Ordinance to permit additional flexibility and innovation with respect design and development of properties that are eligible for approvals pursuant to the Township's Open Space Design Option; and

WHEREAS, the Board of Commissioners believe that the waiving or modification of any eligibility requirements, standards or regulations set forth in the Open Space Design Option provision of the Township's Zoning Ordinance will encourage the use of innovative design and development within Zoning Districts where an Open Space Design Option may be available.

WHEREAS , the Board of Commissioners find that such flexibility is not not necessary when considering the Open Space Design Option for properties located in the Township's Rural Residential Zoning District ("R-1") and the Planned Economic Development ("PED") District as

sufficient flexibility exists within that Districts regulations that promote innovative design and mixed development .

AND NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED AND BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF SOUTH FAYETTE AS FOLLOWS:

1. The recitals set forth hereinabove are incorporated herein by reference thereto.
2. Chapter 240 Zoning, Article XIV Open Space Design Option, Section 240-88 Area and Bulk Regulations, subsection (B)(10) is amended and restated as follows:

The Board of Commissioners may within their discretion, but shall not be required to, by conditional use approval, permit the modification or waiver of any of the eligibility requirements, standards or regulations set forth in this Article in order to encourage the use of innovative design. The Board of Commissioners may deny conditional use approval, provided that they determine that the spirit and intent of this Article would not be met by such approval. A developer desiring to obtain such conditional use approval shall, when making application for conditional use approval for the open space design option, also make application for conditional use approval under this subsection for any modification or waiver of any of the eligibility requirements, standards or regulations set forth in this Article. The Board of Commissioners shall only consider or grant modifications or waivers from the provisions of this Article to an application that is submitted for property located in the Township's R-2 and R-3 Zoning Districts. .

An application for conditional use approval containing a request for any modification or waiver shall submit a statement that provides the justification for such waiver that reflects that the approval of the same would promote the spirit and intent of this Article and also provide how the proposed modification or waiver would promote innovative design. The Board of Commissioners shall consider both conditional use approval requests simultaneously. Any conditional use to permit a modification of any of the standards of this article shall also be subject to Chapter 215, Article IX, "Waivers and Modifications," in the Township Subdivision and Land Development Ordinance as well as the following criteria:

- (a) The design and improvement of lots or open space which shall contain modified standards shall be in harmony with the design and improvement of other lots or open space within the proposed development and shall not, through the use of the modified standards, be obviously different from, or inferior to, other lots within the proposed development.

(b) The use of modified standards shall not result in configurations of lots or street systems which shall be impractical in function or detract from the appearance of the proposed development.

(c) The proposed modified standards shall not result in any danger to the public health, safety or welfare by making access to dwellings by emergency vehicles more difficult, by depriving adjoining properties of adequate light and air or by violating the other purposes for which zoning ordinances are to be enacted under Section 604(1) of the MPC.

(d) Landscaping and other methods shall be used to ensure the privacy of the future residents of the dwellings and to attain the proposed use of the open space.

3. All ordinances and parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeals shall be only to the extent of such inconsistency and in all other aspects, this ordinance shall be cumulative of the other ordinance regulating and governing the subject matter covered by this ordinance.

4. If any section or provision or parts hereof in this ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the ordinance as a whole or any other section or provision or part thereof.

5. This ordinance shall be in full force and effect from and after its passage.

ADOPTED AND APPROVED this 10 day of February 2021.

ATTEST:

TOWNSHIP OF SOUTH FAYETTE

John Barrett, Manager/Secretary

Gwen Rodi, Chairman Board of Commissioners