

ORDINANCE #2004-52

PARKS, OPEN SPACES AND RECREATION FACILITIES

THE PURPOSE OF THIS ORDINANCE IS TO ENSURE THAT ADEQUATE PARKS, OPEN SPACES, AND RECREATION FACILITIES ARE PROVIDED TO MEET THE NEEDS OF SUBDIVISION RESIDENTS, AS THESE NEEDS ARE GENERATED BY NEW SUBDIVISION AND LAND DEVELOPMENT ACTIVITY.

The provisions of this Ordinance shall apply to all residential developments of both single and multiple family dwellings. The provisions shall not apply to:

A. Development which comes under (a) a mobile home park, or (b) a planned residential development or developments approved prior to the enactment of this Ordinance.

B. The amount of land to be dedicated in each development shall be determined by applying the following formula to the total acreage of the development:

Acreage Requirements

Number of Dwelling Units as Per Plan	Minimum Required Acreage Which Must Be Dedicated
0-2	None
2-8	.5
8-20	1.5
21-40	2.0
41-60	2.5
61-80	3.0
81-100	3.5
101-120	4.0
121-140	4.5
141-160	5.0
161-180	5.5
181-200	6.0
For each additional 20 units	Additional .5

The subdivider or developer shall place a note on each subdivision plan or site plan, which is subject to this resolution, as follows:

"No more than _____ [insert number] dwelling units may be constructed on the land which is the subject of this subdivision plan [site plan] unless additional land is dedicated to the Township of Marion for park land and open spaces and/or the Board of Supervisors accepts an additional fee-in-lieu of dedication of park land and open spaces; said decision to be at the discretion of the Board of Supervisors."

C. The Board of Supervisors, or its designee, shall determine if the land is acceptable for dedication based on the following and any other relevant criteria:

(1) Access. The dedicated land must be readily accessible to all development residents. If the dedicated land abuts a public street, there shall be at least frontage of a minimum distance of fifty (50) feet. If easements over private lands are the sole access, they shall be a minimum of fifty (50) feet wide and have a cartway of sufficient width for two (2) vehicles, constructed to a rough grade, passable condition; the maintenance of said right of way shall be the responsibility of the homeowners association or similar organization.

(2) Location. The park and open space land shall be located, to the extent possible, so that it equally serves all residents of the development, but in all events the land shall be accessible to the development.

(3) Shape. The shape shall be suitable to accommodate those park and open space activities appropriate to the location and needs of the residents.

(4) Unity. It is desirable for the intended park and open space land to be in several well placed, adequately sized areas within the Township, so that it can accommodate the anticipated uses, rather than to have numerous useless small pieces.

(5) Utilities.

(a) The major piece(s) of dedicated land are to be accessible to - but none crossed on or above the surface by a public street(s), telephone, power, fuel, water and sewer lines, etc. if any of these facilities are placed underground, no part of them or their supportive equipment shall protrude above ground level;

(b) Steep slopes and flood plains could make up as much as forty (40%) percent of the required open space land, but may not be used for park land. A minimum of sixty (60%) percent of the land must

be relatively flat, dry ground, not exceeding the average percent of slope of the development and suitable to the intended purposes. Yards, court areas, setbacks and other open areas required by zoning and other regulations are not to be included as part of the acreage to be dedicated.

D. If it is determined that the land proposal for dedication is acceptable, the Township may officially accept the land at the time of final approval of the development plat. At such time a deed shall be recorded for the dedicated land and it shall contain the following restrictive clause:

"This land was acquired for perpetual public park and open space purposes through the implementation of the Township of Marion Subdivision Ordinance."

E. The Township or its designees shall be responsible for maintaining all dedicated and accepted areas. Formation of and cooperation with homeowners associations or similar organizations, for purposes of maintenance, shall be encouraged, but the responsibility of seeing that the work is done shall remain with the Township.

F. Fee in Lieu of Dedication.

(1) The Township Supervisors, in their sole discretion, shall determine if it is in the Township's interest to accept parkland or, in the alternative, to require the developer to pay a fee in lieu. Such determination shall be in the sole discretion of the Township Supervisors.

(2) If a fee is required, it shall be equal to an amount per acre multiplied by the number of acres required under this subsection. The amount per acre shall be the average cost per acre of developed land as most recently determined by residential lot sales within the Township. The Township shall annually seek information from the County Tax Assessor's Office as to the current market value of developed land parcel sales within the Township and set the amount by Resolution.

(3) As part of final approval of the Plan, the fee-in-lieu shall be paid to Township in cash and Township shall deposit it in an interest bearing account, clearly identifying the specific parks, open space or recreation facilities for which the fee was received. Interest earned on such accounts shall become funds of that account. Funds from such accounts shall be expended only in properly allocable portions of the costs incurred to construct the specific recreation facilities for which the funds were collected. If the Township has failed to utilize the fees-in-lieu paid for the purpose set forth herein within three (3) years from the date such fee was paid, then upon request of the person who paid the fee, the Township shall refund such fee, plus interest accumulated thereon from the date of payment, to the person who paid such fee.

(4) In some instances, there may be some but not enough land to meet the park and open space needs. In those cases, the Board of Supervisors may elect, at their option, to require the dedication of some land and the payment of a fee-in-lieu of land for the balance.

ENACTED AND ORDAINED this 10th day of August, 2004

MARION TOWNSHIP SUPERVISORS

Repealed by Ordinance No 57

Adopted 1-2-07