

EAST PROSPECT BOROUGH
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 1-2009

AN ORDINANCE OF EAST PROSPECT BOROUGH, YORK COUNTY, PENNSYLVANIA, AMENDING THE EAST PROSPECT BOROUGH SUBDIVISION AND LAND DEVELOPMENT ORDINANCE BY THE ADDITION OF A NEW SECTION TO BE ENTITLED "PUBLIC DEDICATION OF PARK AND RECREATION LAND", TO REQUIRE THE DEDICATION OF LAND FOR RECREATIONAL PURPOSES OR PAYMENT OF A FEE-IN-LIEU THEREOF IN THE EVENT OF THE FILING AND APPROVAL OF A SUBDIVISION OR LAND DEVELOPMENT PLAN.

WHEREAS, the Borough of East Prospect adopted a Subdivision and Land Development Ordinance, which has been amended from time to time; and

WHEREAS, the Borough Council of East Prospect Borough had determined a need to provide for park and recreational areas within its limits or to accept a fee-in-lieu thereof for recreational purposes to further promote the general welfare of the residents of the Borough; and

WHEREAS, by virtue of Section 503(11) of the Municipalities Planning Code (53 P.S. §10503(11)), and Section 2701 et. seq. of the Borough Code (53 P.S. 47701 et. seq.), the Borough Council is authorized to enact ordinances to require dedication of recreation lands or accept a fee-in-lieu thereof to provide for parks and recreation areas within the jurisdictional limits of the Borough.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of East Prospect Borough, York County, Pennsylvania, as follows, to wit:

Section 1. The Subdivision and Land Development Ordinance of East Prospect Borough is hereby amended by the addition of a new section, as follows:

Public Dedication of Park and Recreation Land

- A. Where the Borough considers that a proposed park, playground, open space, or other local or neighborhood recreation site necessary to carry out the purpose of this Section or the Recreation Plan suggests a proposed park, playground, open space or other local or neighborhood recreation site, the Borough may require the dedication of all or a portion of such site in accordance with the following standards:
1. The land to be dedicated must be of suitable size, dimensions, topography, access, and general character for the proposed use.
 2. The amount of land so required for this purpose shall not exceed .025 acres of land for each lot created in a subdivision or dwelling unit created in a land development as shown on the Final Plan proposed by an applicant.
 3. No storm water management facilities designed to retain or detain water from other portions of the development shall be permitted on such land reserved for park, recreation and open space. The Borough Council may consider a waiver of this requirement when such storm water management facility is determined to be effectively useable as a recreation facility.
 4. The park, recreation and 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 so requested by the Borough, the developer shall extend such utilities to the park, recreation and open space land.
- B. Where the application of these area standards would result in an open space or recreation site too small to be usable, or if the Recreation Plan calls for such local recreation site to be located elsewhere, or if a suitable local recreation site cannot be properly located within the site, as determined by the Borough Council, a payment of a fee-in-lieu-of-dedication of such land may be required in accordance with C below. The fee-in-lieu-of-dedication shall be no more than the value of the land that would be otherwise dedicated for recreational purposes hereunder multiplied by the average value of one (1) acre of undeveloped land within the Borough. For purposes of this Ordinance, the average value of one (1) acre of undeveloped land shall be determined by calculating the total consideration for all undeveloped land within the Borough paid over the last two (2) years divided by the total acreage of all undeveloped land conveyed during the same two (2) years. Such calculation shall not include multiple property/single consideration, nominal consideration, family member, forced sale or partial interest sales as defined by the York County Tax Assessor's office. Upon the effective date of this Ordinance, the fee-in-lieu-of-dedication shall be \$1,250 per lot in a subdivision and/or per dwelling unit in a land development. Thereafter, the

Borough Council may amend the fee-in-lieu by resolution adopted from time to time. The amount of such fee shall be per proposed lot in a subdivision or dwelling unit in a land development.

- C. Where the payment-in-lieu-of-land-dedication option is selected and approved by the Borough Council, and agreed to by developer, the developer shall pay to East Prospect Borough a fee per lot or dwelling unit pursuant to B. above.
- D. The following procedures for the collection of fees shall be followed:
 - 1. The fee shall be paid to the Borough prior to the recording of the Final Plan.
 - 2. All money paid to the Borough in this manner shall be kept in a capital reserve fund established as provided by law. Money in such capital reserve fund shall be used only for the purpose of providing park or recreational facilities accessible to the development.
 - 3. Upon written request of any person who has paid a fee in lieu of dedication, the Borough shall refund such fee, and any interest accumulated thereon from date of payment, if the Borough has not used the funds to meet the purposes set forth in this Ordinance within Three (3) years from the date such fee was paid.
- E. In lieu of requiring the dedication of a recreation or park site, or a fee for this purpose, the Borough Council may permit a private site to be used if:
 - 1. In its judgment the purposes of these regulations regarding recreation and park sites will be accomplished; and
 - 2. The private site is permanently devoted to recreation and park use and adequately secured for such use by deed, covenants or other private restrictions.
 - 3. The developer ensures that the private site is accessible to people with disabilities.
- F. Nothing in this Section shall prohibit the Borough from entering cooperative agreement(s) with other municipalities for the purpose of providing recreational facilities for its residents; such cooperation shall be a permitted use for funds collected under this Section, provided that the recreational facilities constructed are accessible to the residents of East Prospect Borough.

Section 2. Severability.

The provisions of this ordinance are severable, and if any section or part thereof is found to


be unconstitutional or unenforceable, then such finding shall not affect the validity of the remaining sections or parts thereof.

Section 3. Effective Date.

This Ordinance shall take effect immediately upon enactment.


ENACTED AND ORDAINED this 7 day of April, 2009.

ATTEST:



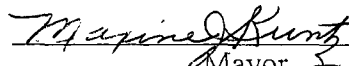
SECRETARY

BOROUGH COUNCIL OF
EAST PROSPECT BOROUGH



PRESIDENT

Approved this 7 day of April, 2009.



Mayor