

AN ORDINANCE AMENDING LANGUAGE IN ARTICLE 5.5 OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE REGARDING RECREATIONS PROVISION AND ASSOCIATED DEFINITIONS (2009-05-18/O-3)

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment changes to the Land Use Management Ordinance regarding recreation provisions and finds that the amendments are warranted in order to achieve the purposes of the Comprehensive Plan, as it relates to 1) developing strategies to address fiscal issues; 2) provide quality community facilities and services; and 3) work toward completing the bikeway/greenway systems.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill follows:

Section 1. Subsection 5.5 to the Chapel Hill Land Use Management Ordinance is hereby revised to read as follows:

5.5 Recreation Parks and Open Space

Section 2. Subsections 5.5.1(c) – (e) to the Chapel Hill Land Use Management Use Management Ordinance are hereby revised to read as follows:

(c) In all cases the Chapel Hill Greenways Commission shall review and make recommendations to the Town Council in the event that proposed development may be located on or have an impact on greenway areas identified in the Town’s Comprehensive Plan, greenway project conceptual plans adopted by the Council, and/or greenway project master plans adopted by the Council.

~~(e)~~ (d) Provision or dedication of parks and open space is not required for a minor subdivision.

~~(d)~~ (e) Phases of development within a subdivided tract that occur after the initial subdivision must provide the required parks and open space appropriate for the subsequent development of those tracts. For example, if multifamily dwellings are built within an already subdivided tract, those dwellings must comply with recreation and outdoor space ratios required for multifamily dwellings by this Section.”

Section 3. Subsection 5.5.2 (a) to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows:

(a) Residential subdivisions.

This section applies to any application for subdivision approval in the zoning districts enumerated below. ~~The total land area set aside permanently for use as recreation area shall be at least the following percentage of gross land area:~~ The minimum size in square feet of a recreation area shall be derived by multiplying the gross land area of the development by the

applicable ratio shown below:

Section 4. Subsection 5.5.2 (b) to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows:

- (b) *Suitability of land.*
- (1) Land provided or dedicated as recreation area shall be outside of the Resource Conservation District and of a character, shape and location suitable for use as a playground, playfield, or for other active recreation purposes including greenway pedestrian and non-motorized vehicle easements. Recreation areas shall be located on land that is relatively flat and dry and is otherwise capable of accommodating active recreation uses, except as exempted under the provisions of Subsections (e)(2) and (e)(3), below.
 - (2) For sites that abut or include areas designated as future greenways on the Town's Comprehensive Plan, greenway project conceptual plans adopted by the Council, and greenway project master plans adopted by the Council, the Town Council may require that a dedicated public pedestrian and non-motorized vehicle easement along all such areas be the recreation space provided under this ordinance.
 - (3) ~~Active~~ Recreation areas and recreation spaces shall be conveniently accessible to all residents of the subdivision and, other than greenway pedestrian and non-motorized vehicle easements, shall have at least fifty (50) feet of frontage on at least one public street within the subdivision. Land provided or reserved for active recreation shall form a single parcel except where the Town Council determines that two (2) or more parcels are more suitable to the needs of a particular subdivision. The Town Council may require that such parcels be connected.
 - (4) In large developments it is desirable to have parks and recreation areas within walking distance of new residences.

Section 5. Subsection 5.5.2 (d) (1), (2), (3) to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows:

- (d) *Payments in lieu of provision or dedication.*
- (1) In lieu of providing or dedicating ~~parks and open space~~ recreation area required pursuant to this section, a developer of a subdivision may, with the approval of the Town Council, make a payment to the Town whereby the Town may acquire or develop recreation land to serve the subdivision. A developer may make a partial payment in combination with the partial provision of recreation area if the Town Council determines that the combination is in the best interests of the citizens of the area to be served.

- (2) The Town Council may require a payment to the Town in lieu of providing or dedicating recreation area required pursuant to this section where the minimum recreation area required by this section equals four (4) two (2) acres or less.
- (3) The Town shall use such payment only for the acquisition or development of recreation, park, greenways, or open space sites, as allowed by law.

Section 6. Subsection 5.5.2 (e) to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows:

(e) *Exemptions.*

- (1) ~~If the The Town Council may exempt an application from the determines that the land required to be provided or dedicated as recreation area requirements by in this section would be if the required recreation area is less than three thousand (3,000) square feet. and where that area cannot be combined with an existing or planned recreation area, or greenway as identified on the Town's Comprehensive Plan, then provision or dedication of that area will not be required.~~
- (2) If the Town Council determines that assembling a piece of land to meet the requirements of Subsection (b) either would create undue hardships or is not necessary because the active recreational needs of the subdivision are already being met by dedicated land or by existing recreation areas, it may waive any requirements of that Subsection. In such cases, the required recreational area may be used for preserving woods, steep slopes, ponds, streams, glens, rock outcrops, native plant life, and wildlife cover. These areas would provide for the community's need for passive recreational areas and/or greenways.
- (3) If the site abuts or includes areas designated as future greenways on the Town's Comprehensive Plan, greenway project conceptual plans adopted by the Council, and greenway project master plans adopted by the Council, land area dedicated as a public pedestrian non-motorized vehicle easement or deeded to the Town along the greenway may be applied to requirements for dedication of recreation area and exempted from the land suitability requirements of Subsection (b).

Section 7. Subsection 5.5.2 (g) to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows:

(g) *Multi-family dwelling units.*

Active, improved space (either indoors or outside) shall be provided for the common active recreational use of residents of multi-family developments. For sites that abut or include areas designated as future greenways in the Town's Comprehensive Plan, greenway project conceptual plans adopted by the Council, and greenway project master plans adopted by the Council; land dedicated for a public pedestrian and non-motorized vehicle easement or deeded to the Town along the greenway may be substituted for required improved recreation space. The minimum

size of such active recreation space shall be the number of square feet derived by multiplying gross land area of the development by the applicable ratio shown below. ~~on the next page.~~

Section 8. Subsection 5.5.2 (h) to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows:

(h) *Payments in lieu of improved recreation space.*

In lieu of providing recreation space required pursuant to this section, a developer of a multifamily dwelling or planned development may, with the approval of the Town Council (or Planning Board if final approval is by the Planning Board), make a payment to the Town whereby the Town may acquire or develop recreation land or greenways to serve the development. A developer may make a partial payment in combination with the partial provision of recreation space if the Town Council determines that the combination is in the best interests of the citizens of the area to be served.

The Town Council (or Planning Board if final approval is by the Planning Board), may require a payment to the Town in lieu of providing or dedicating recreation space required pursuant to this section.

The Town shall use such payment only for the acquisition or development of recreation, park, or open space sites to serve residents of the development or residents of more than one (1) subdivision or development within the immediate area. The amount of the payment shall be the product of the ~~minimum~~ amount of recreational space required, multiplied by a dollar amount established by the Town Council annually as part of the budget process. ~~the fair market value of improved recreation space.~~

The developer shall make the payment before issuance of a zoning compliance permit for the development, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the development.

~~The amount of the payments in lieu of improved recreation space shall be established by the Town Council annually as part of the budget process.~~

Section 9. APPENDIX A- DEFINITIONS to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows with respect to the term Recreation Land:

Recreation Area: Any land required to be dedicated under the subdivision provisions of Article 5.5. These areas may be improved with recreation amenities at the time of development, however in most cases recreation areas are generally left unimproved during the initial development of the subdivision.

Land dedicated as recreation area shall generally be suitable for future recreation improvements such as playgrounds, playfields, or other active recreation purposes. Recreation areas, in most cases, shall be centrally located within the subdivision, consist of land that is

relatively flat and dry, and is otherwise capable of accommodating active recreation.

The Town Council may waive suitability requirements in order to preserve greenway corridors or other important natural areas.

~~*Recreational land:* Any land appropriately located space appropriately located and, if necessary, improved as outdoor living space and for aesthetic appeal, including existing natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way. Such space does not include outdoor space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.~~

Section 10. APPENDIX A- DEFINITIONS to the Chapel Hill Land Use Management Use Management Ordinance is hereby revised to read as follows with respect to the term Recreation Space, Improved:

Recreation Space: Any space, improved for active recreation purposes, required to be dedicated under the multi-family development provisions of Article 5.5. These areas are improved with recreation amenities at the time of development.

All recreation space amenities must adhere to requirements of the Americans with Disabilities Act.

Recreation space shall be improved with recreation facilities designed for active play. All recreation space improvements must be built or installed using standards generally accepted for each type of amenity. Examples of active play facilities include:

- Playgrounds utilizing commercial grade play equipment and adhering to national safety standards for play equipment and fall surfaces
- Ballfields and athletic fields designed and built for active recreation. Such fields must be properly graded and have appropriate turf, goals, sub-drainage, benches, and other amenities commonly required for the intended sport. Unimproved open grass areas are not considered to be athletic fields.
- Basketball courts installed with regulation goals and in hard surface court areas large enough to sustain regulation play. Half courts are acceptable. Basketball goals installed in a street or parking lot are not acceptable.
- Swimming pools and bathhouses
- Tennis courts
- Community gardens appropriately designed and constructed with at least 5% of the garden area consisting of raised beds for handicap users, a source of water throughout the garden area, storage area for tools, handicap accessibility, and access for maintenance.
- Clubhouses intended to be owned by a homeowners' association and operated for the recreation needs of the community.
- Exercise rooms within an apartment, condominium, or other such building intended to be used by the residents for recreation purposes.

- Ponds improved to support fish, stocked with fish, and improved to allow fishing access by persons with disabilities.
- Roof top running tracks
- Paved Greenway Trails
- Unpaved Greenway Trails of a length that provides a meaningful recreation experience. Generally 3,000 linear feet or longer.

Examples of facilities which are not considered active in nature include:

- Open lawn areas
- Large expanses of unimproved space between or around active recreation elements
- Picnic tables and picnic facilities
- Seating areas
- Areas dedicated to lawn games such as badminton, croquet, lawn darts, horseshoes, etc.
- Areas dedicated to table top board games
- Gardens not improved for active gardening by the community
- Orchards

The Town Council may allow up to 30% of the recreation space to consist of passive recreation elements if they are located adjacent to and support the more active recreation elements. For example, some picnic facilities, seating, and lawn games could be counted if they are adjacent to a children's play area and support the mission of the play area.

The Town Council may waive suitability requirements in order to preserve greenway corridors or other important natural areas.

~~*Recreational space, improved: Any recreational land, including enclosed floor area, which is appropriately improved for the common active recreational use of residents of multifamily developments and planned developments. For sites that abut or include areas designated as future greenways in the Town's Comprehensive Plan, land dedicated for a public pedestrian and non-motorized vehicle easement along the greenway may be substituted for required improved recreation space.*~~

Section 11. This Ordinance shall be effective upon enactment.

This the 18th day of May, 2009.