

**TOWNSHIP OF UPPER DEERFIELD**

**ORDINANCE # 575**

**RECREATIONAL/OPEN SPACE ORDINANCE**

WHEREAS, the Township Committee of the Township of Upper Deerfield is desirous of implementing provisions to authorize payments in lieu of open space requirements in connection with development subdivision;

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Upper Deerfield that Chapter 98 be and is hereby amended to include the following provisions which shall be designated as Chapter 98-24.1.

Chapter 98 General Standards and Requirements.

§ 98-24-1. Recreation Open Space.

A. Recreation.

(1) A recreation area shall be dedicated and improved by the developer for any development containing more than seven residential units. A residential unit shall include any dwelling or living area designed to include one or more sleeping quarters. Said recreation area shall consist of at least 1 acre, or 3,000 square feet per residential unit in the development, whichever is greater.

(2) All land and recreation areas shall be cleared as required, graded for proper drainage, leveled, top soiled, limed, fertilized and seeded with athletic field and general purpose mixture in accordance with specifications contained in Lofts, Inc., Guide Seed and Sod in United States and Canada, current edition, and must be suitable for playing playground games, such as touch football and softball, on an informal basis. The recreation area shall meet all design standards as set forth in this chapter.

(3) The recreation area shall not include any wetlands, wetlands transition areas of any kind, streets, drives, or space occupied for off-street parking or loading purposes for other facilities. The recreation area shall be contained within the development and entirely within Upper Deerfield Township and readily accessible to all lots intended for residential development.

(4) The development shall provide for a homeowners' association for the ownership and maintenance of the recreation area for the benefits of owners or residents of the development unless the Township accepts dedication of the recreation area.

(5) Monetary contribution in lieu of recreation area. In lieu of the recreation area required by Subsection A(1) herein above, the developer may elect, with approval by the Planning Board or Zoning Board of Adjustment, as the case may be, to make a contribution of \$3,000 per residential unit to a Recreation Trust Fund maintained by the Township specifically for the periodic purchase, lease, acquisition and/or maintenance of recreational facilities for use by the residents of the Township of Upper Deerfield. Said contribution shall be paid at the time of final approval and before the signing and release of any subdivision plats.

(6). In the designation of the required open space and the uses proposed thereon, the developer shall be guided by the following:

- (a) Any lands proposed as open space shall be improved to best suit the purpose(s) for which open space is intended.
- (b) Common open space to be administered by a homeowners' association or other open space organization shall be distributed throughout the proposed development so that as many residential dwelling units or buildings as are practicable abut and have direct access to the common open space.
- (c) The protection of environmentally fragile and important resource land areas, such as aquatic and wetland buffer areas, one hundred year flood plain and treed acreage is a high priority.

(7) The Planning Board shall review the submitted common open space plan in the context of the particular development proposal, the particular characteristics of the subject land area and the ability, desirability, and practicality of relating the proposed open space to adjacent and nearby lands. In any case, the lands shall be improved as may be necessary to best suit the purpose(s) for which they are intended.

(8) Should the proposed development consist of a number of development phases, the Planning Board may require that open space acreage be proportionate in size to the development phases, being considered for final approval for that particular development phase, even though these lands may be located in a different section of the overall development.

(9) Open space may be offered by deed to the Township or dedicated as common open space to a homeowners' association or other open space organization.

(a) If the applicant proposed that the open space be dedicated to the Township, then the Planning Board shall forward such request with its recommendations to the Township Committee prior to the granting of preliminary approval of any development application containing the subject open space.

(b) All open space not offered to and/or not accepted by the Township shall be owned and maintained by a homeowners' association or other open space organization as provided in N.J.S.A. 40:55D-43. Such organization shall not be dissolved, nor shall it dispose of any common open space by sale or otherwise.

(10) The developer shall provide a minimum contiguous area within lands of the designated open space not considered environmentally fragile as set forth in §6(c) above of at least 200 x 100 feet in size. The area shall not include any roads, streets, rights-of-way, detention or retention basins or portions of the development side aside for other required uses.

(11) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by any Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

(12) All Ordinances or parts which are inconsistent with the provisions of this Amendment to an Ordinance are hereby repealed to the extent of such inconsistency.

(13) This ordinance shall take effect immediately upon posting, publication, and final passage in the manner prescribed by law.

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C. Kenneth Hill, Chairman

Finally adopted  
July 6, 2006

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Roy Spoltore, Township Clerk