

**TOWN OF SPRING LAKE
COUNTY OF SCOTT
STATE OF MINNESOTA**

ORDINANCE NO. 06-003

**AN ORDINANCE ESTABLISHING REGULATIONS FOR
PARK DEDICATION WITH THE SUBDIVISION AND
PLATTING OF LAND**

The Town Board of Spring Lake Township, Scott County, Minnesota hereby ordains as follows:

Section 1 – Authority: This Ordinance is adopted pursuant to the authority granted in Minnesota Statutes Section 462.358 Subd. 2b.

Section 2 - Purpose: All subdivisions of land hereafter submitted shall fully comply in all respects with these regulations and those contained in the Scott County Land Subdivision Ordinance Number 7; or successor ordinance, to:

- A. Provide for the preservation and development of parks, playgrounds, trails and open space areas within the Township, which are essential to maintaining a healthy and desirable environment for residents. The presence of parks, trails and open space amenities also enhances the value and attractiveness of the Township to landowners, developers, and purchasers of property within the Township. The Township must not only provide for its present citizens, but it must also provide for the future.
- B. Require that new Developments contribute toward the Township's Park system in proportion to the relative burden they will place upon the park system. Development results in increased population, increased intensity of use and greater demands on the Township's parks, trails and open space system. As new Developments place a burden upon the Township's parks, trails and open space system, new facilities must be developed concurrently with development in order to provide the desired level of service and the quality of the environment for the residents of the Township.
- C. Set the minimum requirements necessary to protect the public health, safety, comfort, convenience and general welfare.

Section 3 – Jurisdiction and Scope:

- A. The rules and regulations governing plats and subdivision of land contained herein shall apply within the boundaries of the Town of Spring Lake.
- B. This Ordinance is not intended to repeal, annul or in any way impair or interfere with existing provisions of other laws, ordinances or with restrictive covenants running with the land except those specifically repealed by or in conflict with this Ordinance.
- C. The regulations contained in this Ordinance are to be considered as additional and more restrictive requirements to those contained in the Scott County Land Subdivision Ordinance Number 7, or successor ordinances. Compliance with the provisions of both Ordinances and approvals of both the Township and Scott County are required for the subdivision of land within the boundaries of the Town of Spring Lake.

Section 4 – Separability: Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not effect the validity of the remaining sections and provisions of this Ordinance.

Section 5 – Interpretation: In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, or other ordinance or regulation shall be controlling.

Section 6 - Public Sites and Open Spaces (Park Land Dedication):

- A. As a prerequisite to final plat, subdivision approval, or the issuance of building permits within a development on any land previously divided by plat, metes or bounds or any other means, applicants and/or developers shall dedicate a reasonable amount of land for parks, playgrounds, public open spaces or trails and/or shall make a cash contribution to the Township's Park & Trail Fund roughly related to the anticipated effect of the plat or development on the park and trail system. The amount of land required to be dedicated or the cash contribution provided in this ordinance are the Township's best estimate of the contribution needed to offset the effect of the plat or development on those systems.

- B. The form of contribution (cash, land, or any combination thereof) shall be determined by the Township Board in its sole discretion based upon need and the Parks and Trails Plan.
- C. Land to be dedicated shall be reasonably suitable for its intended use, as determined by the Township, and shall be at a location convenient to the public to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, rare species and other significant wildlife habitats, tree cover, access, location and consistency with the Township Parks and Trails Plan.
- D. The applicant or developer shall confer with the Town Board, Township Staff and the Township Engineer at the time the preliminary plat is under consideration by the County, to secure a recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds or other public property. The preliminary plat shall show the location and dimensions of all areas to be dedicated in this manner. Such contribution requirement recommendation(s) will be sent to the Town Board for its approval.
- E. When a proposed park, playground, recreational area, or other public ground has been indicated in the Township Parks and Trails Plan, official map or the Scott County Comprehensive Plan and is located in whole or in part within a proposed plat, it shall be dedicated to the appropriate governmental unit, as determined by the Township. If the applicant elects not to dedicate an area in excess of the land required hereunder for a proposed public site that the Township feels is in the public interest to acquire, the Township may consider acquiring the excess land through purchase or condemnation.
- F. Land area conveyed or dedicated to the Township shall not be used in calculating density requirements of the Scott County Zoning Ordinance and shall be in addition to and not in lieu of open space requirements for planned unit developments/cluster plats.
- G. Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas shall not be used for credit against the requirement of dedication for park and recreation purposes, unless the Town Board finds it is in the public interest to do so.
- H. The Township, upon consideration of the particular type of development, may require that a lesser parcel of land should be dedicated due to

particular features of the development. In such cases, a cash contribution shall be required in addition to the land dedication to insure that compensation is received for the full amount of the impact on the Township's park and trail system.

- I. In all new subdivisions, up to ten (10) percent of the gross area subdivided, or a different percentage as the Town Board shall determine to be reasonably necessary as a result of the development or subdivision approval, shall be dedicated for public recreation space or other public use as established by Town Board as a condition of plat approval. The dedicated percent of the gross area subdivided shall be in addition to property dedicated for streets, alleys, easements, or other public ways. No areas may be dedicated for public use until such areas have been approved by the Town Board as suitable and necessary for the health, safety, convenience and general welfare of the Township.
- J. The Developer/Applicant shall make a dedication of land for public park and trail use, or shall pay a fee in lieu of such land dedication as follows:
 1. Land Dedication. When land is to be dedicated to satisfy the park dedication requirement, separate lots or outlots shall be indicated on the plat drawings for the area(s) to be dedicated. Such lots or outlots in the Town Board's discretion shall be deeded to the Township and recorded at the time of the recording of the final plat or prior to the issuance of any permits within the plat. The developer shall be responsible for finished grading, ground cover and construction of trails in all lands to be dedicated to the Township. No credit toward the required dedication shall be given for this work.
 2. Cash Fee. When a cash fee is to be paid in lieu of land dedication:
 - a. Residential Development: a fee in lieu of land dedication as follows: \$2,000.00 per dwelling unit or lot. The fee shall be paid prior to the Township's release of the signed final plat mylars for recording with Scott County.
 - b. Commercial and Industrial Development: a fee in lieu of land dedication as follows: \$1,000.00 per gross acre of the subdivision. The fee shall be paid prior to the Township's release of the signed final plat mylars for recording with Scott County.
 - c. In plats that include outlots for future development, the subdivider may pay to the Township i.) the development's proportional share

for the entire subdivision, including said outlots, or ii.) the development's proportional share excluding such outlots, providing that the park dedication requirement shall be satisfied when such out lots are replatted in accordance with the Township's park dedication requirements in effect at the time of such replatting.

K. The Township may elect at its sole discretion to receive a combination of cash, land, and/or improvements to the land for park use. When the Township elects to accept combination of cash, land, and/or improvements to the land the following formulas will be used to determine the dedication requirement:

1. The Township will determine what percentage of the total land dedication requirement for the development will be satisfied by the land accepted for dedication. The additional cash contribution required for the unsatisfied portion of the land dedication requirement will be calculated by taking required cash contribution for the entire plat as calculated in section J (2) and multiplying it by the remaining unsatisfied percentage of the total land dedication requirement.
2. The value of any accepted improvements to the parkland shall be subtracted from the total cash contribution, which would be required to be paid by the Developer as calculated in Section J (2) of this Ordinance. Developer shall submit an estimate of the cost of construction of the improvements. The Township will review the estimated costs of construction. If the Township Board and the Developer are unable to agree on the value of the improvements, the Township Board will make the determination as to the value of said improvements.

L. Planned unit developments/cluster plats with mixed land uses shall make cash and/or land contributions in accordance with this Ordinance based upon the percentage of land devoted to the various uses.

M. Park cash contributions are to be calculated and established at the time of final plat approval based upon the rate in affect at the date of application. Any park cash contribution requirements by the Township, shall be conveyed to Scott County for inclusion as a condition of Preliminary and Final Plat approval or approval of any other subdivision of land or development, however if such contribution is not included as a condition of County approval it still remains an obligation of the applicant and the Township will not execute a Developer's Agreement, accept public roads or approve construction, issue a building permit or sign any plat until such

time as the requirements of this Ordinance have been met. The Town Board may require the payment at the time of final plat approval, development or at a later time at the discretion of the Town Board. Delayed payment may include interest at a rate of 12% APR.

- N. Cash contributions for parks and trails shall be deposited in the Township's Park & Trail Fund and shall only be used for park and trail acquisition, debt retirement related thereto or improvements to the system as determined by the Township. Additionally, said funds may be utilized anywhere within the Township park and trail systems
- O. Wetlands, ponding areas, and drainage ways accepted by the Township may not be considered in the parkland and/or cash contribution to the Township.
- P. Property being replatted shall be subject to the requirements of this Ordinance in its entirety if the area to be replatted has not previously been subject to the Park Dedication Requirements imposed hereunder. The replatting of land from which previous park dedication, whether in the form of land, cash or both, was received shall be subject to the terms of this Ordinance only to the extent that the number of lots or the number of dwelling units is increased, or if land outside the previously recorded plat is added, then the park land dedication and/or park cash contributions shall be based on the additional lots and on the additional land being added to the plat. The requirements of this Ordinance shall apply to any Outlots replatted.
- Q. When land is dedicated and deeded to the Township for park purposes, it shall be the responsibility of the Township to maintain such dedicated property.
- R. If the applicant or developer does not believe that the estimates contained in this section fairly and accurately represent the effect of the subdivision on the park or trail system of the Township, the applicant or developer may request that the Township prepare an in-depth study of the effect of the subdivision on the park and trail system and an estimate of that effect in money and/or land. All costs of such study shall be borne by the developer or applicant. If the developer or applicant requests the preparation of such a study, no application for development submitted shall be deemed complete until the study has been completed and a determination is made as to the appropriate amount of land or money necessary to offset the effects of the subdivision.

Section 7 - Penalty:

- A. Any person found in violation of any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by penalty established in State Statute for a misdemeanor as may be amended from time to time. Any person convicted of a violation of this ordinance shall be required to pay the reasonable costs of prosecution.
- B. The Township may in its discretion, seek any civil remedies available to it including remedies at law, in equity or other relief. In the event that civil remedy is pursued, the Township may seek reimbursement of any and all costs, disbursements, witness or other fees, as well as reasonable attorney's fees expended by the Township in order to enforce this Ordinance.
- C. Other Remedies. Each right or remedy accruing to the Township under this Ordinance or at law is separate and distinct and may, at the Township's discretion, be exercised independently or simultaneously with any other right or remedy.

This ordinance shall be effective upon its passage and publication in the official newspaper of the Township.

Passed the _____ day of _____, 2006.

Gene Berens
Chair, Spring Lake Town Board

ATTEST:

Kathy Nielsen
Clerk, Spring Lake Township