

Greenway Lands Ordinance

West Vincent Township, Chester County

ARTICLE XIX DESIGN STANDARDS FOR SITE PLANNING AND GREENWAY LANDS WITHIN RESIDENTIAL DEVELOPMENTS

SECTION 1901 PURPOSES

The design standards established under this Ordinance have been established to support the natural resource conservation objectives of the Township Comprehensive Plan and its Open Space, Recreation, and Natural Resources Plan, while accommodating new growth and development. The purposes of these standards are:

- A. To allow for flexibility in lot design which directs buildings, site disturbance, and activities to the most suitable locations with respect to the natural conditions of a tract;
- B. To protect unique natural features of the Township including aquifers, water bodies, floodplains, wetlands, woodlands, and steep slope areas from disturbances;
- C. To minimize visual impact upon the scenic rural character of the Township by fitting new construction harmoniously into the natural landscape; and
- D. To provide an opportunity for creative, varied, environmentally sensitive, and economical development, permitting a range of lot areas, building densities, and housing sizes, and to promote continued diversity of age and income in the community.

SECTION 1902 USES AND IMPROVEMENTS ON GREENWAY LANDS

Subject to other relevant provisions of this Ordinance, the following uses and improvements shall be permitted on greenway lands:

- A. Conservation of open land in its natural state, including but not limited to woodland, fallow field, and managed meadow.
- B. Agriculture and horticulture uses, including raising crops or livestock; wholesale nurseries; and aquaculture; including residences and associated buildings that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are intensive agriculture and commercial livestock operations involving swine or poultry likely to produce highly offensive odors.
- C. Pastureland for horses, excluding commercial hack stable operations. Equestrian facilities and structures, including training and exercise facilities, shall be permitted but may not occupy more than half of the minimum required greenway land.

- D. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry.
- E. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails per Section 616 of the Township Subdivision and Land Development Ordinance, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Board.
- F. Active non-commercial recreation areas, such as playgrounds, playing fields, courts, and bikeways, provided such areas do not occupy more than half of the minimum required greenway land. Playing fields, playgrounds, and courts shall not be located within 100 feet of abutting properties. Parking facilities for the same shall also be permitted, provided that they generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain adequate parking.
- G. Golf courses, excluding associated parking areas and structures, may comprise up to half of the minimum required greenway land, but shall not include driving ranges or miniature golf. Their parking areas and accessways may be paved and lighted. Such golf courses shall be Audubon Society certified and shall be designed, constructed and maintained in accordance with the standards contained in "Golf Course Management and Construction: Environmental Issues", edited by James C. Balogh and William J. Walker, and "Landscape Restoration Handbook", sponsored by the United States Golf Association.
- H. Water supply and sewage disposal systems, and stormwater "best management practices" (BMPs) facilities; excluding lagoons, structures, and access areas; provided such permitted facilities do not occupy more than half of the required greenway land.
- I. Easements for drainage, emergency access, sewer or water lines, or other public purposes.
- J. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse greenway areas but shall not count toward the minimum required greenway land.

SECTION 1903 GENERAL DESIGN STANDARDS FOR GREENWAYS IN ALL NEW RESIDENTIAL DEVELOPMENTS

- A. Greenway lands shall be laid out in general accordance with the Township's Conservation Area Map to ensure that an interconnected network of open space will be provided. The required greenway land consists of Primary Conservation Areas and Secondary Conservation Areas. Primary Conservation Areas comprise environmentally sensitive areas such as floodplains, submerged lands, wetlands, and slopes over 25 percent. Secondary Conservation Areas include special features such as precautionary slopes (1525%), seasonal high water table soils, woodlands, visual resources, and other features which do not create severe limitations for development but which conservation is desirable for purposes of providing an interconnected system of open space and

recreation.

B. Minimum Required Greenway Land The minimum percentage of land to be designated as permanent greenway, in all subdivisions, is described below. In Tier 1, III, and IV subdivisions, the percentages below include the public land dedication, as described in Section 1903E. below and Section 615C. of the Township Subdivision and Land Development Ordinance, when required.

1. Tier I Subdivision: 80% of total tract
2. Tier II Subdivision: All primary conservation areas on the tract, plus required public land dedication (see Section 1903E. below).
3. Tier III Subdivision: 50% of Adjusted Tract Acreage, plus all primary conservation areas within the tract. In Tier III subdivisions, this minimum greenway land shall generally remain undivided. Exceptions to this rule are contained in the waiver provisions allowing for some larger lots, with conservation easements, as described in subsection CA. below.
4. Tier IV Development: 60% of Adjusted Tract Acreage, plus all primary conservation areas within the tract. In Tier IV subdivisions, this minimum greenway land shall generally remain undivided. Exceptions to this rule are contained in the waiver provisions allowing for some larger lots, with conservation easements, as described in subsection CA. below.

C. Location of Greenway Lands:

1. In Tier I subdivisions, the required greenway land comprises 80% of the total tract area. Greenway lands in Tier I developments may be contained within large estate lots, or may be set aside as undivided land with common rights of usage among the subdivision residents, or different parts of it may be designated in each of these ways. Up to 5000 sq. ft. per dwelling unit may be subject to the Township's public land dedication requirement in accordance with subsection E. below.
2. In Tier II subdivisions, the required greenway land comprises all of the primary conservation areas within the total tract, plus any land that is subject to the Township's required public land dedication.
3. In Tier III and Tier IV subdivisions, the greenway land comprises a minimum of 50% and 60% of the "Adjusted Tract Acreage" respectively, plus all of the primary conservation areas within the tract. This land may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the Township, or by a private individual (typically as part of the original farmhouse). However, in no case shall less than 30% of the land comprising the "Adjusted Tract Acreage" be available for the common use

and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the greenway land may be owned by different entities.

Up to 5000 sq. ft. per dwelling unit may be required by the Board of Supervisors to be dedicated for public use in accordance with Section 1903E. below. Such dedicated land would comprise part of the normal greenway requirement, and would not be in addition to it.

4. Greenway land within Tier III and Tier IV subdivisions shall generally remain undivided. Alternatively, up to seventy percent (70%) of the greenway land may be included within one or more large "conservancy lots" of at least ten (10) acres, owned by individuals, with the remainder (not less than 30%) deeded to the homeowners' association, land trust, or the Township. See Sections 702 and 703 of the Township's Subdivision and Land Development Ordinance for greenway design criteria.

In situations not involving "conservancy lots" of ten (10) acres or more, waivers to the 50% minimum standard for undivided greenway land in Tier III subdivisions and 60% minimum standard for undivided greenway land in Tier IV subdivisions may be granted by the Board to enable applicants to provide a greater variety of larger lot sizes within their proposed subdivisions. Under this waiver provision, such larger lots may consume up to 20% of the undivided greenway land that is normally required. Any such proposed reduction in the undivided greenway land shall not compromise the integrity of that land from an environmental, functional, or visual standpoint. In order to safeguard these values, those parts of the enlarged houselots that would have ordinarily been included in the undivided greenway land (based on the locational criteria for greenways in this Ordinance and in the Subdivision and Land Development Ordinance) shall be protected through permanent conservation easements prohibiting construction and land management practices inconsistent with conservation purposes. For example, tree cutting shall generally be prohibited and existing fields or meadows shall be managed as such. Meadow mowing shall be permitted only between October and March, after wildlife have left their nests and after wildflower seed have been set). Because of the potential of streams, brooks and creeks as corridors for neighborhood paths and community trail linkages, lot lines shall generally not be allowed to extend to within 100 feet of their banks.

5. Buffers for Adjacent Public Parks or Nature Preserves : Where the proposed development adjoins public parkland (township, county, state, or federal), or nature preserves owned by any governmental agency or private conservation organization, a greenway buffer at least one-hundred-fifty (150) feet deep shall be provided within the development along its common boundary with such lands, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for trail

construction). Where this buffer is unwooded, the Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.

D. Permanent Greenway Protection through Conservation Easements:

1. In Tier I subdivisions where applicants voluntarily opt to subdivide their properties at densities conforming with Tier I standards (minimum ten acres per principal dwelling), and voluntarily offer to place a restrictive conservation easement preventing future subdivision of the newly created parcels or any other ownership option listed in Section 1905B. below, the Board of Supervisors shall review the proposed ownership arrangement and shall approve it, provided it accomplishes the purposes of this Ordinance and is consistent with the Township's Comprehensive Plan and its Open Space, Recreation and Natural Resources Plan.

****Note:** The previous subsection has been amended as per Ord. No. 101.

2. In Tiers II, III and IV subdivisions, the greenway land that is required to be reserved and created through the subdivision process shall be subject to permanent conservation easements prohibiting future development. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities. The determination of necessity shall lie with the Board of Supervisors. A list of permitted and conditional uses of greenway lands is contained in Sections 1902 above.)

E. Land Set-Asides for Public Recreational Use and the "Fee-in-Lieu" Alternative:

The standards contained in Section 615C. of the Township Subdivision and Land Development Ordinance shall apply to new subdivisions proposed for review and approval by the Township.

SECTION 1904 SPECIFIC DESIGN STANDARDS FOR GREENWAY PLANNING IN RESIDENTIAL SUBDIVISIONS

- A. The greenway land in residential subdivisions shall be identified and laid out according to the five-step design process described in Section 403F. of the Township's Subdivision and Land Development Ordinance, beginning with identification of both Primary Conservation Areas and Secondary Conservation Areas. The Subdivision and Land Development Ordinance contains both design standards and a design process for greenway lands, and those regulations shall apply to residential subdivisions.
- B. Common greenway lands shall contain only those structures relating to the designated

purpose for which the land area has been reserved (see also Section 1902 above).

- C. Where common greenway land is designated as separate, non-contiguous parcels, parcels constituting part of the minimum required greenway land shall generally consist of not less than three (3) acres in area, nor shall they generally have a length-to-width ratio less than 4: 1, except such areas that are specifically designed as neighborhood greens, playing fields, or trail links, subject to the approval of the Board of Supervisors.
- D. Common greenway land shall be directly accessible to the largest practicable number of lots within the development to provide direct views and safe and convenient pedestrian access to the greenway land from all lots not adjoining such areas shall be provided.
- E. Common greenway land shall be located in a manner which preserves and protects watercourses, floodplains, delineated wetlands, and slopes in excess of twenty-five percent (25%).

SECTION 1905 GREENWAY OWNERSHIP AND MAINTENANCE STANDARDS

- A. In general, greenway land in any subdivision may be owned by a homeowners' association, the Township, a land trust, another conservation organization recognized by the Township, or by a similar entity. Such land may also remain privately owned or within the boundaries of individual houselots, still however subject to permanent conservation easement restrictions. In developments with twenty-five (25) or more dwelling units, a maximum of seventy-five percent (75%) of the required greenway land may remain in private ownership, while a minimum of twenty-five percent (25%) of the required greenway land shall be in common or public ownership.

B. Greenway Ownership Standards

Common greenway land within a development shall be owned, administered and maintained by any of the following methods, either individually or in combination, and subject to approval by the Board of Supervisors:

1. Offer of Dedication

- a. The Township shall have the first and last offer of dedication of common greenway land in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Township may, but shall not be required, to accept common greenway land provided:
 - (1) such land is accessible to the residents of the Township;
 - (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and

- (3) the Township agrees to and has access to maintain such lands.
- b. Where the Township accepts dedication of common greenway land that contains improvements, the Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.

2. Homeowners' Associations

- a. The greenway land and associated facilities may be held in common ownership by a Homeowners' Association. The Association shall be formed and operated under the following provisions:
- (1) The developer shall provide a description of the Association including its bylaws and methods for maintaining the greenway open space.
 - (2) The Association shall be organized by the developer and operating with financial subsidization by the developer, before the sale of any lots within the development.
 - (3) Any sale or transfer of a lot or lots within a development covered by a homeowners' association shall contain a disclosure to the buyer at the time of agreement of sale and on the property deed indicating the existence of a homeowners' association, including any declaration of covenants and restrictions, by-laws, and rules and regulations.
 - (4) Membership in the Association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the Association from developer to homeowners shall be identified.
 - (5) The Association shall be responsible for maintenance and insurance on common greenway land, enforceable by liens placed by the Homeowners' Association. Maintenance obligations may be enforced by the Township which may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the open space to collect unpaid taxes.
 - (6) The members of the Association shall share equitably the costs of

maintaining and developing such common land. Shares shall be defined within the Association bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).

- (7) In the event of a proposed transfer, within the methods here permitted, of common greenway land by the Homeowners' Association, or of the assumption of maintenance of such land by the Township, notice of such action shall be given to all property owners within the development.
- (8) The Association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common greenway land.
- (9) The Homeowners' Association may lease greenway lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:
 - a) that the residents of the development shall at all times have access to the greenway lands contained therein (except that access to land that is actively farmed shall be limited to times of the year with the fields are fallow);
 - b) that the common greenway land to be leased shall be maintained for the purposes set forth in this Ordinance; and
 - c) that the operation of greenway facilities may be for the benefit of the residents only, or may be open to the residents of the Township, at the election of the developer and/or Homeowners' Association, as the case may be.
- (10) The lease shall be subject to the approval of the Board and any transfer or assignment of the lease shall be further subject to the approval of the Board. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township.

3. Condominiums

In order to facilitate public matters such as the collection of taxes on greenway

land and associated facilities, such land and facilities shall be controlled through the use of condominium agreements, approved by the Board. Such agreement shall be in conformance with the Uniform Condominium Act of 1980. All common greenway land shall be held as "common element".

4. Dedication of Easements

The Township may, but shall not be required to, accept easements for public use of any portion or portions of common greenway land, title of which is to remain in ownership by condominium or homeowners' association, provided:

- a. such land is accessible to Township residents;
- b. there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
- c. a satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association and the Township.

5. Transfer of Easements to a Private Conservation Organization

With the permission of the Township, an owner may transfer easements to a private, nonprofit, organization recognized by the Township, among whose purpose it is to conserve open space and/or natural resources, provided that:

- a. the organization is acceptable to the Board, and is a bona fide conservation organization with perpetual existence;
- b. the conveyance contains appropriate provision for proper reverter or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions; and
- c. a maintenance agreement acceptable to the Board is entered into by the developer and the organization.

6. Individually Owned

Greenway land and open space may be owned by one or more owners of units within the development provided that the remainder of each lot meets the minimum required lot area of the district and an easement under Section 1905.B.4. above for the purpose of preserving open space and visual resources is dedicated and accepted by the Township. Any proposed uses within the greenway land or common open space shall be subject to the approval of the Board of Supervisors.

7. Township as Trustee

The Township may, but shall not be required to, be designated and serve as trustee of any portion or portions of greenway land or common open space, title of which is to remain in the ownership of the condominium or homeowners' association, provided:

- a. There is no cost to the Township for trusteeship.
- b. A satisfactory maintenance agreement is reached between the developer and the Township.
- c. The existence of the trusteeship shall be recorded against all individual lots and property owners.

C. Greenway Maintenance Standards

Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and greenway land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.

1. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities and open spaces at the time of preliminary subdivision plan submission. A Maintenance and Operations Plan shall be submitted, detailing the kinds of tasks that will need to be undertaken on a regular basis to control invasive species and to promote a varied habitat for plant and wildlife, the various responsibilities for those maintenance tasks, and the entities that will perform those tasks in both the short term and over the longer term. Any changes to the maintenance plan shall be approved by the Board of Supervisors.
2. In the event that the entity established to maintain the greenway lands and the common facilities, or any successor thereto, shall at any time after establishment of a development containing greenway land fail to maintain such land in reasonable order and condition in accordance with the development plan, the Township may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the greenway land in reasonable condition.
3. Failure to adequately maintain the greenway land in reasonable order and condition constitutes a violation of this Ordinance. The Board is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within thirty (30) days. 1

4. If the owner fails to remedy, the Township may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended. The Township may enter the premises and take corrective action. The costs of such corrective action shall be charged to the property owner and may include administrative and legal costs and penalties.
5. Should any bill or bills for maintenance of greenway land by the Township be unpaid by November 1 of each year, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.