

CITY OF BETHLEHEM

Department of Community and Economic Development Interoffice Memo

TO: J. William Reynolds, City Council President

FROM: Darlene L. Heller, Director of Planning and Zoning

RE: Proposed Zoning Ordinance Amendment Article 1318.28 – Tree Conservation
Proposed SALDO Amendment Section 1347.10.C – Recreation fees

At their April 9, 2015 meeting the Planning Commission voted to recommend approval of the above-referenced Ordinance amendments. The amendments include:

Tree Conservation – In the 2012 Zoning Ordinance a section was added to address Tree Conservation. We have found that the provisions are somewhat impractical in the areas of the City where we allow for denser, mixed use development. We do, however, believe that the current provisions should still apply in the much lower density areas of the City. Therefore, the amendment limits the tree conservation requirements in most areas of the City, but retains the current provisions for outlying areas.

Recreation fees – The PA Municipalities Planning Code was recently revised to allow for a broader use of recreation fees collected from developer contributions. The proposed amendment reflects the provisions to the MPC. A memo from the Solicitor's office is attached to further clarify these amendments.

Please place these amendments on an upcoming City Council agenda to be read into the record. Please contact our office if you need more information.

CC: Members of Council
Mayor Donchez
A. Karner
M. Kloiber
T. Samuelson
S. Borzak
R. Carp

DATE: _____

Darlene L. Heller, AICP
Director of Planning and Zoning

BILL NO. - 2015

ORDINANCE NO.

AN ORDINANCE AMENDING ARTICLE 1347.10 OF THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA AS AMENDED, ENTITLED RECREATION LAND AND FEES

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That current Section 1347.10(c), in the Subdivision and Land Development Ordinance, which reads:

1347.10. Recreation Lands and Fees.

* * * *

C. Limitations on Use of Fees.

1. Fees collected under this section, upon their receipt by the City of Bethlehem, shall immediately be accounted for separately from other City funds, with interest earnings retained in such account deposited in an interest bearing account, clearly identified as reserved for providing, acquiring, operating or maintaining park or recreational facilities. Interest earned on such accounts shall become funds of that account.
2. ~~To make sure that the lands and facilities are accessible to the inhabitants of the developments that paid fees towards their cost, such fees should only be used within a 5-mile radius of the boundaries of the subdivision or land development that paid the fees, unless the fees are used within a recreation area open to the public that the City determines serves the entire City.~~
3. Such fees shall ~~only~~ be used for providing, acquiring, operating or maintaining park or recreational facilities that are reasonably accessible to the development from which the fees were paid. the following: acquisition of public recreation land and open space, development of public recreational facilities, landscaping of public lands and closely related engineering, design work and debt payments.
4. ~~Unless the City commits the fees for a different set of facilities or recreation area at the time of or prior to receipt, then as a default to comply with Section 503(11)(vi), the fees shall be used for the further development of the Monocacy Park as a generally centrally located recreation area providing programs and facilities for all residents and employees within the entire City.~~

Shall be amended to read as follows:

1347.10. Recreation Lands and Fees.

* * * *

C. Limitations on Use of Fees.

1. Fees collected under this section, upon their receipt by the City of Bethlehem, shall immediately be deposited in an interest bearing account, clearly identified as reserved for providing, acquiring, operating or maintaining park or recreational facilities. Interest earned on such accounts shall become funds of that account.
2. Such fees shall be used for providing, acquiring, operating or maintaining park or recreational facilities that are reasonably accessible to the development from which the fees were paid.

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by

ADOPTED by Council this ____ day of _____, 2015.

President of Council

ATTEST:

This Ordinance approved this ____ day of _____, 2015.

Mayor



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: R. Carp
A. Miller-Karner
From: M. Kloiber
Re: Recreation Fees – Amendment to the MPC
Date: February 17, 2015

The General Assembly recently changed the recreation fees section of the Municipalities Planning Code. Section 503(11) of the Pennsylvania Municipalities Planning Code (MPC), Act of July 31, 1968, P.L. 805, as amended, 53 P.S. §§ 53 P.S. §10503(11). This section authorized municipalities to include provisions in their Subdivision and Land Ordinances (SALDOs) to collect recreational fees from developers in certain circumstances. Our recreational fee language is found in the Bethlehem SALDO in Article 1347.10. At the direction of the Park's Department, we have drafted language to update this section of our SALDO. This proposed language is attached to this memorandum for your review and comments.

Under the prior language of the MPC, recreation fees, once collected, were "to be used only for the purpose of providing park or recreational facilities accessible to the development." Prior Section 503(11). Additionally, the fees had to be placed in an account that "clearly identif[ied] the specific recreational facilities for which the fee was received." Id. These funds could then only be used "to construct the specific recreation facilities for which the funds were collected." Id. If the City "failed to utilize" the fee within three years for the specific project it was allocated for, the person who paid the fee could ask for the fee to be refunded with interest; the municipality was required to honor such a request.

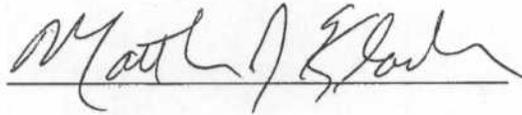
The General Assembly's revision to this portion of the MPC includes several noteworthy changes:

First, the fees collected are no longer limited to just funding construction of recreational facilities, but now may also be used to "acquir[e], operat[e] or maintain[]" such facilities.

Second, it does not require that the specific project for which the funds are to be used be identified at the time the funds are collected. However, it does require that the fees be used for "park or recreational facilities" that are "reasonably accessible to the development."

Third, it removes the three year period to request a refund. Additionally, the General Assembly removed the "failed to utilize" language. The current version now allows the developer to seek a refund only if "the fee paid" is used "for a purpose other than the purposes set forth in this act."

The proposed modification to Article 1347.10 follows the changes made to Section 503(11) of the MPC. Please review and provide us with your comments and suggestions.



Matt J. Glavin

cc: Mayor Donchez
D. Heller
T. Samuelson

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 1318.28 OF THE ZONING ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA, AS AMENDED, ENTITLED TREE CONSERVATION.

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That Article 1318.28 of the Zoning Ordinance, as amended, which reads:

1318.28 Tree Conservation.

- (a) Where any existing healthy tree(s) that has a trunk diameter of 8 inches or greater (measured 4.5 feet above the ground level) are removed from a site as part of or in preparation for a development project, 2 new trees shall be planted for each such tree that is removed. These trees shall be in addition to trees required by other City requirements. The new trees shall have a minimum trunk diameter of 2.5 inches measured 6 inches above the ground level and shall meet the City species requirements that would apply to street trees, unless other species are approved by the City Forester. If there is mutual consent by the applicant and the City, some or all of the replacement trees may be planted on City owned land as an in lieu of requirement.
- (b) Where an existing street tree is removed from a site as part of or in preparation for a development project, it shall be replaced with a new street tree meeting City street tree requirements. Where the planting of a new street tree is not feasible, such as because of conflicts with utility lines or sight triangles, the City may allow such tree to be planted at an alternative location on the site.
- (c) See also Section 1319 regarding trees.

Be amended to read as follows:

1318.28 Tree Conservation.

- (a) Where any existing healthy tree(s) that has a trunk diameter of 8 inches or greater (measured 4.5 feet above the ground level) are removed from a site as part of or in preparation for a development project, 21 new trees shall be planted for each such tree that is removed. ~~These trees shall be in addition to trees required by other City requirements.~~ The new trees shall have a minimum trunk diameter of 2.5 inches measured 6 inches above the ground level and shall meet the City species requirements that would apply to street trees, unless other species are approved by the City Forester. If there is mutual consent by

the applicant and the City, some or all of the replacement trees may be planted on City owned land as an in lieu of requirement. **In the RR (Rural Residential) and CM (Office Research Center) Districts, all of the above provisions shall apply, except that 2 new trees shall be planted for each such tree that is removed.**

- (b) Where an existing street tree is removed from a site as part of or in preparation for a development project, it shall be replaced with a new street tree meeting City street tree requirements. Where the planting of a new street tree is not feasible, such as because of conflicts with utility lines or sight triangles, the City may allow such tree to be planted at an alternative location on the site.
- (c) See also Section 1319 regarding trees.

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by

PASSED finally in Council on the _____ day of _____,
20____.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____,
20____.

Mayor