

AN ORDINANCE

Amending Chapter 15-100 of the Philadelphia Code, entitled "Parks," by establishing procedures and requirements before outdoor, public park and recreation land in the City may be transferred for or converted to non-park or non-recreation use, under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Chapter 15-100 of The Philadelphia Code is amended to read as follows:

CHAPTER 15-100. PARKS AND OUTDOOR SPACES

[(RESERVED)]

§ 15-101. *Definitions. In this Chapter, the following definitions apply:*

(1) *"Convert" and "Conversion" mean a change to the physical characteristics or use of land, if authorization by ordinance of City Council is required under the Home Rule Charter for the change.*

(2) *"Outdoor Park or Recreation Land" means land (a) that was under the jurisdiction of the former Fairmount Park Commission or former Recreation Department as of June 30, 2009, or is under the jurisdiction of the Department of Parks and Recreation, and (b) used for outdoor, public park and recreation activity. For example, without limitation, "outdoor park or recreation land" includes the following, where each is owned or held by the City for public use or enjoyment: woods; hiking trails; recreation paths; picnic areas; lawns; gardens; baseball, softball and other athletic fields; outdoor fountains and plazas; horseback riding corrals; playgrounds; outdoor tennis courts and outdoor basketball courts. "Outdoor park or recreation land" does not include the following:*

*A. Land occupied by any building or other structure enclosed by a roof and walls at the time this Section became law, but the land surrounding the building or structure is outdoor park or recreation land.*

*B. Land acquired by the City under Philadelphia Code Chapter 16-400 unless the City by ordinance specifies that the City is acquiring the land for outdoor park or recreation activity or the City by later ordinance designates the land for outdoor park or recreation activity.*

(3) *"Transfer" means a change in physical or legal care, custody or control of land, whether by any form of written document or otherwise, including but not limited to sales, conveyances of title, leases, licenses, permits, grants, easements, or concessions, if*

authorization by ordinance of City Council is required under the Home Rule Charter for the change.

(4) "Transferee" means the party to whom land is proposed to be transferred or who proposes to convert land.

§ 15-102. *Conditions to Conversion or Transfer of Park or Recreation Land.* No land that the City owns or holds now or in the future as outdoor park or recreation land may be transferred or converted unless each of the following conditions is satisfied:

(1) *The proposed transferee provides to the Commission on Parks and Recreation (the "Commission") and to City Council a complete written "Alternatives Analysis" in compliance with Section 15-104. If the transferee intends to transfer the land to another person or entity, then the Alternatives Analysis may be submitted by that proposed subsequent transferee of the land;*

(2) *After reviewing the Alternatives Analysis, the Commission submits to the Mayor and the Council President, along with a written explanation, the Commission's determination whether, in its judgment, (i) the continuation of the original use of the land as outdoor park or recreation land is no longer practicable or possible and has ceased to serve the public interest; (ii) the proposed transfer or conversion is necessary for the public interest; (iii) there is any reasonable and practical alternative to the proposed transfer or conversion; and (iv) the Substitute Land (defined below) has the same or greater usefulness as outdoor park or recreation land as the land to be transferred or converted. If the Commission does not submit its determination within 120 days following its receipt of the Alternatives Analysis, or within 45 days after the first Commission meeting held not less than 30 days after receipt of the Alternatives Analysis, whichever is earlier, or by a later date as may be agreed to by the proposed transferee in writing with copies submitted to the Commission and the Council President, then Council may presume the Commission's approval.*

(3) *A Committee of Council conducts at least one public hearing on the bill authorizing the proposed transfer or conversion no less than ten days after the Commission delivers its written determination to the Mayor and Council President;*

(4) *The ordinance that authorizes the transfer or conversion includes findings that: (i) the continuation of the original use of the land as open park or recreation land is no longer practicable or possible and has ceased to serve the public interest; (ii) the proposed transfer or conversion is necessary for the public interest; and (iii) there is no reasonable and practical alternative to the proposed transfer or conversion; and*

(5) *The City receives or acquires land to substitute for the transferred or converted land (the "Substitute Land") on or before the transfer or conversion. The Substitute Land must be of at least equal value, size, and park or recreational usefulness as the land to be transferred or converted, as determined by the Commission; except that the respective value of the Substitute Land and the land proposed to be transferred or*

*converted must be based on professional, independent appraisals which assume the parcels' highest and best use without regard to their existing zoning. To the extent reasonably feasible, the Substitute Land must be located in the same or an adjacent City Council district as the transferred or converted land.*

*§ 15-103. Exemptions.*

*(1) The provisions of § 15-102 do not apply to the following transactions:*

*(a) Renewals of any license, lease, professional services agreement, permit, temporary easement, grant agreement, or concession agreement in effect on the date this Section became effective, each of which may be renewed in accordance with its terms;*

*(b) Transfers or conversions for public utility sub-surface easements that do not impair outdoor, public park or recreational use (except temporarily during construction);*

*(c) Transfers or conversions for stormwater management facilities that do not impair outdoor, public park or recreational use;*

*(d) Adaptive re-use of an historic structure, or of any other structure on park or recreation land existing at the time this Section became law, that promotes preservation of the structure but that does not require more than a de minimus increase in impervious coverage on park or recreation land;*

*(e) Modifications or corrections of roadways, curb lines, sidewalks, paths, and similar adjustments that result in only a de minimus increase in impervious coverage on park or recreation land.*

*(2) The provisions of § 15-102(2)(i) and(iv), (3), (4) and (5) do not apply to conversion of outdoor park or recreation land that changes the use of the land to a use that would be permissible under Pennsylvania law.*

*§ 15-104. "Alternatives Analysis."*

*(1) The "Alternatives Analysis" required by Section 15-102(1) must include:*

*(a) Detailed explanations of: (i) why the continuation of the original use of the land as outdoor park or recreation land is no longer practicable or possible and has ceased to serve the public interest; (ii) why the proposed transfer or conversion is necessary for the public interest; and (iii) why there is no reasonable and practical alternative to the proposed transfer or conversion;*

*(b) A description of the current outdoor park or recreation land proposed to be transferred or converted, the impact of the transfer or conversion on current*

*outdoor, public park or recreational uses at the site, and the effect of the proposed new use on traffic and parking;*

*(c) An analysis of the most reasonable alternatives that do not require the transfer or conversion, including but not limited to an analysis of those alternatives' costs, environmental impact, and traffic and parking impact, and why those alternatives were judged to be impractical or unreasonable; and*

*(d) A description of the proposed Substitute Land, including a map, photographs, and analysis of its built and natural resources and its usefulness as outdoor, public park or recreation land, including without limitation consideration of traffic, parking and proximity to other open space.*

*(2) Despite the other provisions of this Section 15-104, an Alternatives Analysis for a transaction that, under Section 15-103(2), is exempt from the requirements of Section 15-102(2)(i) and (iv), (3), (4), and (5), also does not need to comply with the provisions of Section 15-104(1)(a)(i) and (1)(d).*