

# Chapter 11

## Park Land Dedication

Rev. Jan. 16, 2007

### Section 11.1 Purpose of This Chapter

The purpose of this Chapter is to ensure that there will be sufficient land dedicated or otherwise set aside to meet the demand and need of the future residents for open space and parks. In determining the size, shape and quality of open space and park areas that should be set aside and reserved in the manner set out in this section, the City has considered the projected growth in population and development within the municipality and the amount of open space and park and recreational facilities needed to accommodate such growth as stated in the Parks and Recreation Master Plan.

### Section 11.2 Authorization for Adoption of This Chapter

The regulations contained in this Chapter have been adopted under the following authority:

1. *Chapter 212 – Municipal Regulation of Subdivisions and Property Development of the Texas Local Government Code*, which authorizes a municipality to adopt rules governing plats and subdivisions of land within the municipality's jurisdiction.
2. *Chapter 51 – General Powers of Municipalities of the Texas Local Government Code*, which authorizes a municipality to adopt ordinances, rules, or police regulations that are for the good government, peace, or the trade and commerce of the municipality.
3. *The Home Rule Charter of the City of Colleyville*, which authorizes the City Council to exercise all powers granted to municipalities by the Constitution or the laws of the State of Texas.

### Section 11.3 Variances and Appeals

Any person seeking approval of a development as required by this Land Development Code may request a waiver from a requirement contained in this Chapter, or appeal a decision of an Administrative Official by submitting a request using the procedures described in *Chapter 1 – General Provisions* of this Land Development Code.

### Section 11.4 Definitions

Definitions applicable to this Chapter may be found in *Chapter 2 – Definitions* of this Land Development Code.

### Section 11.5 Council Authority and Procedure

#### 11.5.A APPLICABILITY

1. Unplatted Property - This section applies to all property for which a final plat has not been formally submitted to the City for approval, unless otherwise noted herein.
2. Exempt Property - Any tract or lot occupied by an existing residential dwelling unit at the time of adoption of this ordinance shall be exempt from the dedication requirements of this section herein if the residential dwelling remains on the lot. This exemption pertains only to the tract or lot with the

existing residential dwelling. Any additional lots created by further subdivision of the property shall be subject to the requirements herein.

3. Date of Assessment - All requirements contained in this section shall be assessed at the time of approval of the final plat of any applicable property.

### **11.5.B LAND DEDICATION REQUIREMENTS**

#### **1. Standards**

In reviewing proposed dedications of park land, the following criteria shall be imposed; provided, however, the approving body may vary or waive any of the following criteria on a finding that the proposed dedication of park land is in accordance with the development of the City, complies with the statement of intent of the Park Land Dedication Ordinance and because of the uniqueness of the property, requires a variance:

- a. Park land shall be clearly visible from the public rights-of-way and shall be located so as to give maximum possible exposure throughout the neighborhood.
- b. Access to the park land shall be available from public rights-of-way.
- c. Where the proposed park land is a flood plain area which is proposed as a linear park, the following shall also be considered:
  - i. Whether the proposed site contains significant environmental features representative of a pre-urbanized Colleyville, including trees, plants, wildlife, topography, geological outcroppings, unique water features or any combination thereof.
  - ii. Whether the proposed site currently provides, or will provide in the future, an effective linkage to other existing or anticipated public park sites which will allow movement to and from places where residents live, work and play.
  - iii. Whether the proposed site is easily accessible, visible and identifiable.
  - iv. Whether the proposed site has street frontage along its entire length.
  - v. Whether the proposed site is designed to be used and function as a natural waterway with minimal site alteration.
- d. A minimum of fifty percent (50%) of any dedicated park land shall have grades of less than three percent (3%) and shall be well drained and suitable for development of park land improvements.
- e. Park land shall be provided with access to all utilities, including water and sewer, along the street frontage of the park.
- f. Park land shall not be burdened with easements, rights-of-way, deed restrictions or other limitations which prohibit or inhibit the use of the park land for park purposes.

#### **2. Amount and Location**

##### **a. Residential Developments**

Based on the population projected to reside in the City of Colleyville, as stated in the 1998 Master Plan adopted by the City Council, the City desires to provide 12.93 acres of park land for every new 1,000 residents in an ultimate condition. Park Land meeting the requirements contained within this section shall be dedicated to the City at a ratio of one (1) acre of park land for every twenty-five (25) residential dwelling units or a prorated portion thereof.

The subdivider shall dedicate to the City a minimum of 0.040 acres of park land in fee simple for each DU (dwelling unit) within the subdivision; provided, however, no tract of park land shall be less than seven (7) acres in total area unless approved by the City Council.

b. Non-Residential Developments

Although non-residential development does not generate residential occupancies per se, it does create environmental impacts, which may negatively affect the living environment of the community. These impacts may be ameliorated or eliminated by providing park or open space areas which buffer adjoining land uses, prevent undue concentration of paved areas, allow for the reasonable dissipation of automotive exhaust fumes, provide natural buffers to the spread of fire or explosion, and provide separation of lighting, waste disposal, and noise by-products of non-residential operations and activities from adjacent residential areas. The City has therefore determined that non-residential developments must provide dedicated parks and/or reserved open space at a ratio of one (1) acre of park land for every fifty-six (56) non-residential gross acres of development or prorated portion thereof.

c. Off-site Dedications

A developer may dedicate the required park land for a development at another location owned by the same developer within the City with the consent of the City, provided that the off-site dedication is in accordance with this ordinance.

3. Documents Accompanying Final Plat

Where the subdivider proposes to dedicate land to the City for park land purposes, the following additional documents shall be submitted to the City with the submission of the final plat of the subdivision:

- a. An environmental study, audit or assessment demonstrating that the property is in a condition which would allow the City to utilize the property for park purposes without expenditures to remove environmental waste or hazardous materials, that the property is suitable and safe for use as a park and is free from environmentally related problems.
- b. If a developer chooses to dedicate the land or to build the park, a site plan of the park property containing a conceptual plan of the type, nature, and extent of improvements which could be made to the property and identifying the property as to type, i.e., neighborhood park, linear park, special purpose or community park.
- c. A statement as to the number of proposed DUs within the subdivision.

4. Condition of Property and Acceptance by the City of Colleyville

Prior to the issuance of a building permit for the erection of any house within the subdivision, the subdivider shall apply to the City for written acceptance of the park land, which shall be accepted upon completion of the following conditions:

- a. The subdivider shall permanently mark each corner of the park site with a three-quarter inch (3/4") iron pin set in concrete.
- b. The subdivider shall provide the City with a survey acceptable to the City reflecting each corner monument, showing and locating any encroachments, easements and providing a metes and bounds description of the park land.
- c. All rubbish, trash, junk and other offensive materials shall be removed from the park land and the property returned to its natural condition except as to approved construction and improvements thereon.

- d. All improvements or construction on or within the park land to be installed by the subdivider shall be completed in accordance with approved construction plans.
- e. All other applicable ordinances of the City have been complied with.

### **11.5.C ALTERNATIVES TO LAND DEDICATION**

#### **1. Authorization**

In any case where a dedication is required, the City shall have the right to accept the dedication, as submitted for approval, or in the alternative, to refuse dedication of the same, and in lieu thereof to require payment of cash under the formula contained in this Section. The City may permit a combination of dedication and fees to be used to fulfill this requirement.

#### **2. Fee Payment Alternative**

Approval of Fee Payment Alternative: The City Council shall upon recommendation of the Parks and Recreation Advisory Board, determine the acceptability of a developer's payment of fees in lieu of land dedication requirement of this section.

#### **3. Calculation of Fees**

The City Council shall establish an acreage land value cost figure to be used in calculating park fees.

- a. Residential Dwelling Unit Fees: Fees paid in lieu of dedication shall be based on the determined cost of 1 acre of land divided by twenty-five (25), for a resulting fee per residential dwelling unit of \$1,802.
- b. Non-Residential Development Fees: The fee payment alternative for non-residential development shall be calculated by dividing the determined cost of one (1) acre of land by fifty-six, for a resulting fee per non-residential acre cost of \$800 per acre.
- c. Park land fees shall not be assessed or collected for lots that do not impact the parks system. Examples of lots that do not impact the parks system include, but are not limited to, open space lots, greenbelts, and detention or retention lots. (0-07-1606 / 01-16-07)

#### **4. Collection of Fees**

- a. Park land dedication fees in lieu of dedication shall be paid before the final plat is recorded with the County Clerk's office. A plat containing two (2) or fewer lots may pay park land dedication fees at the time of issuance of any building permit for a DU within the subdivision.
- b. By agreement approved by the City Council, the City and the subdivider may alter the time and method of payment and fees in lieu of dedication.

#### **5. Physical or Equipment Improvements to Parks**

Compatibility with Parks and Recreation Master Plan: A developer may have the option of improving existing facilities within municipal parks or improving dedicated park land in lieu of park land dedication or payment of cash, based on recommendations made in the Parks and Recreation Master Plan. Should any of these options be exercised, the City and the developer shall prior to initiation of work on such improvements, enter into an agreement for credit of expenses for authorized park improvements. In no case shall the municipality be required to reimburse the developer if he chooses to improve park lands at an amount greater than required. Such a proposed agreement to provide facility improvements in lieu of dedication shall be submitted in writing with the subdivision plat.

#### **6. Approval Process**

- a. Land Dedications

- i. Parks and Recreation Advisory Board Recommendation: The Parks and Recreation Manager or their designee shall report to the Parks and Recreation Advisory Board regarding any park land dedication issues arising from development applications submitted to the City for approval. The Parks and Recreation Advisory Board may then make a formal recommendation to the Planning and Zoning Commission to accept or refuse any proposed dedicated land prior to the Commission's action on the development.
- ii. Planning and Zoning Commission: The Planning and Zoning Commission shall consider the recommendation of the Parks and Recreation Advisory Board in determining the acceptability of any land dedications proposed on any development. The Commission recommendation shall then be forwarded to the City Council for final approval where applicable.
- iii. Final Plat Dedications: Where review or development applications have resulted in the City's desire for land dedication, such land dedication shall be shown on a final plat and shall contain a clear fee simple dedication of that land to the City.

#### 7. Use of Fees

- a. All funds collected as fees in lieu of dedication shall be deposited in a special interest bearing account dedicated to the accumulation of monies required by this section. Interest earned on fees in lieu of dedication shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed upon the use of fees in lieu of dedication.
- b. Expenditures of fees in lieu of dedication shall be made only for one or more of the following purposes:
  - i. The acquisition or improvement of park sites or other sites which are available for park purposes.
  - ii. Inappropriate expenditures

Monies placed in this fund may not be utilized for any other general business activity of the City or for maintenance of park facilities.

### **Section 11.6 Park Land Dedication Committee**

1. The City hereby creates the Park Land Dedication Committee. The Park Land Dedication Committee shall be made up of two members of the Planning and Zoning Commission and two members of the Parks and Recreation Advisory Board. The Park Land Dedication Committee shall have the following duties:
  - a. Review proposed park land dedication fund expenditures and make recommendations to the Planning and Zoning Commission and the City Council.
  - b. Review the Parks and Recreation Master Plan every three years and make recommendations for modification or alteration.
2. The City Council shall appoint the members of the Park Land Dedication Committee and the terms of the members of the Park Land Dedication Committee shall coincide with their respective terms of the Planning and Zoning Commission or the Parks and Recreation Advisory Board, as applicable.

### **Section 11.7 Amendments to This Chapter**

Reserved for listing of amendments to this Chapter.

<b>Ord. Number</b>	<b>Date</b>	<b>Subject</b>
O-00-1216	5/2/00	Changed fee & deleted PUD open space credits
O-07-1606	1/16/07	Added paragraph c to Section 11.5.C.3 – Calculation of Fees