

ARTICLE IV. - PARK LAND DEDICATION

Sec. 78-71. - Purpose of article.

- (a) This article is adopted to provide recreational areas in the form of municipal parks as a function of subdivision development in the city. This article is enacted in accordance with the home rule powers of the city, granted under the state constitution, and the statutes of the state including, but not by way of limitation, Texas Local Government Code § 54.004, and ch. 212. It is hereby declared by the city council that recreational areas in the form of municipal parks are necessary and in the public welfare, and that the only adequate procedure to provide for municipal parks is by integrating such a requirement into the procedure for planning and developing property or subdivision in the city, whether such development consists of new construction on vacant land or rebuilding and remodeling of structures on existing residential property.
- (b) Municipal parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. The park zones established by the parks and recreation department and shown on the official parks and recreation map for the city shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of municipal parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, this article is adopted to effect the purposes stated.

(Code 2005, § 78-71; Ord. No. 2005-37, § 2, 9-27-2005)

Sec. 78-72. - Dedication procedures.

- (a) Whenever a final plat is filed of record with the county clerk of Collin County, Dallas County and/or Rockwall County for development of a residential area (including single-family and multifamily residential areas) in accordance with the subdivision, planning and zoning ordinances of the city, such plat shall contain a fee simple dedication of an area of land to the city for park purposes, which area shall equal five acres for each 100 proposed dwelling units. The dedication required by this article shall be made by filing of the final plat and/or, in the city's sole discretion, contemporaneously by separate instrument in the form of a warranty deed approved by the city. If the actual number of completed dwelling units exceeds the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of money in lieu of land as provided in this article or by the fee simple dedication of land to the city by separate instrument in the form of a warranty deed approved by the city, at the sole discretion of the city council.
- (b) The city council declares that development of an area smaller than five acres for public park purposes is impractical. Therefore, if fewer than 100 units are proposed by a plat filed for approval, the developer may be required to pay the applicable cash in lieu of land amount provided by section 78-73(c), rather than to dedicate any land area. No plat showing a dedication for park purposes of less than five acres shall be approved unless such plat and dedication is recommended for approval by the city parks and recreation board and subsequently approved by the city council.
- (c) In all other instances, the city shall have the right to accept the dedication for approval on the final plat, or to refuse the dedication, after consideration of the recommendation of the planning and zoning commission and the parks and recreation board, and to require payment of cash in lieu of land in the amount provided by section 78-

73(c), if the city determines that sufficient park area is already in the public domain in the area of the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks.

(Code 2005, § 78-72; Ord. No. 2005-37, § 2, 9-27-2005; Ord. No. 2006-43, § 2, 7-25-2006)

Sec. 78-73. - Money in lieu of land.

- (a) Subject to approval of the city council, a land owner responsible for dedication under this article may elect to meet the requirements of section 78-72, in whole or in part, by a fee payment in lieu of land, in the amount set forth in subsection (c) of this section. Such payment in lieu of land shall be made at or prior to the time of final plat approval. Nonpayment of fee shall constitute grounds sufficient to deny approval of the proposed plat.
- (b) The city may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the city does purchase park land in a park zone, subsequent park land dedications for that zone may be required to be in cash only, and calculated to reimburse the city's actual cost of acquisition and development of such land for parks. The fee amount shall be set out in the fee schedule in appendix C to this Code. Once the city has been reimbursed entirely for all such park land within a park zone, this section shall cease to apply, and the other subsections shall again be applicable.
- (c) To the extent that subsection (b) of this section is not applicable, the dedication requirement shall be met by a payment of cash, in lieu of dedication of land, at a per acre price set from time to time by resolution by the city council, sufficient to acquire land and provide for adjacent streets and utilities for a municipal park to serve the park zone in which such development is located or to improve or expand existing park land in the park zone. Unless changed by the city council, such per acre price shall be based on a fee as set out in the fee schedule located in appendix C to this Code. Cash payments may be used only for acquisition or improvement of a municipal park located within the same zone as the development, or, upon recommendation of the park board and approval of the city council, funds from any and all park zones may be combined for special purposes with or without the option to reimburse the contributing zones.

(Code 2005, § 78-73; Ord. No. 2005-37, § 2, 9-27-2005)

Sec. 78-74. - Comprehensive plan considerations.

The city shall create and maintain a master park plan for the city and its extraterritorial jurisdiction. The city shall further designate the size of the parks and the zones which are to be supportive of these parks. Dedication of park land shall be in accordance with the master plan. The city will determine, the park location based on land suitability. This plan may be, from time to time, updated and amended at the pleasure of the approving authorities and as the review of proposed plats for development within those zones.

(Code 2005, § 78-74; Ord. No. 2005-37, § 2, 9-27-2005)

Sec. 78-75. - Park acquisition and improvement fund; right to refund.

- (a) There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this article or any preceding article or any preceding ordinance, which fund shall be known as the park acquisition and improvement fund. Such fund may be subdivided to create as many separate funds as become necessary in order to ensure that all funds are separated by park zone and spent wholly and completely within such park zone. Upon

recommendation of the park board and approval of the city council, funds from any and all park zones may be combined for special purposes. Each fund shall be separately audited in the annual audit of the city and shall be available for public review.

- (b) The city shall account for all sums paid in lieu of land dedication under this article with reference to individual plats involved. Any funds paid for such purposes must be expended by the city within five years from the date received by the city for acquisition or development of a municipal park. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the owners of the property, on the last day of such period, shall be entitled to a pro-rata refund of such sum computed on a square footage of area basis. The owners of such property must request such refund within one year of entitlement, in writing, or such right shall be barred.
- (c) When residential developments occur in phases, all phases of the development shall meet applicable dedication requirements. If land dedication is to occur in a latter phase of the overall development, the dedication requirement for the initial phases shall be met by placing funds into an escrow account as directed by the city upon acceptance of each phase by the city. When the actual land dedication occurs, the escrowed funds plus interest shall be returned to the depositor. The depositor must request such refund within one year of entitlement, in writing, or such right shall be barred. If land dedication does not occur within five years of completion of the initial phase of the overall development, the escrowed funds plus interest shall be forfeited by the depositor and the funds shall become the property of the city.

(Code 2005, § 78-75; Ord. No. 2005-37, § 2, 9-27-2005)

Sec. 78-76. - Additional requirements.

- (a) Any land dedicated to the city under this article must be suitable for park and recreation uses. The following characteristics of a proposed area are generally unsuitable:
 - (1) Any area primarily located in the 100-year floodplain.
 - (2) Any areas of unusual topography or slope which renders same unusable for organized recreational activities.Such characteristics of a park land dedication area may be grounds for refusal of any preliminary plat. The city parks and recreation board shall consider the usability of any proposed dedications of land in the 100-year floodplain or in any easement on a case-by-case basis. The board's recommendation to accept or deny the proposed dedication shall be forwarded to the city council with supporting justification explaining the recommendation.
- (b) Land that is deemed to be unsuitable by the city parks and recreation board as listed in subsection (a) of this section may be accepted by the city council, provided that suitable land in the proper amount is dedicated which is contiguous with the unsuitable land.
- (c) Drainage areas may be accepted as part of a park if the channel is constructed in accordance with city engineering standards, and if no significant area of the park is cut off from access by such channel.
- (d) Each park must have ready access to a public street.
- (e) Unless provided otherwise in this section, an action by the city shall be by the city council, after consideration of the recommendations of the planning and zoning commission and the parks and recreation board and its recommendation to the city council.

(Code 2005, § 78-76; Ord. No. 2005-37, § 2, 9-27-2005)

Sec. 78-77. - Minimum park improvements.

In cases where land dedication is chosen, the following minimum criteria must be adhered to by the developer, at the developer expense, prior to acceptance of the improvements by the city:

- (1) Grading and clearing of unwanted vegetation, to be determined by the city;
- (2) Installation of subgrade drainage. No open drainage channels will be permitted on land being dedicated for park purposes;
- (3) Provision of water and sewer service to the site; and
- (4) Provision of adequate accessibility from the adjacent public street in compliance with the Americans with Disabilities Act (ADA) and as approved by the city park and recreation staff.

(Code 2005, § 78-77; Ord. No. 2005-37, § 2, 9-25-2005)

Sec. 78-78. - Biennial review.

Prior to one year after September 25, 2005, the park board shall review the park land dedication ordinance and make any recommendations for revision to the city council. Thereafter, at least once every two years, the park board shall review the park land dedication ordinance and make any recommendations for revision to the city council.

(Code 2005, § 78-78; Ord. No. 2005-37, § 2, 9-25-2005)

Sec. 78-79. - Offense.

It shall be an offense for any person, firm, corporation or business entity to violate this article. The penal provisions imposed under this chapter shall not preclude the city from filing suit to enjoin the violation. The city retains all legal rights and remedies available to it pursuant to local, state and federal law.

(Code 2005, § 78-79; Ord. No. 2005-37, § 2, 9-25-2005)

Secs. 78-80—78-100. - Reserved.