

**CITY OF JOHNSON CITY CODE OF ORDINANCES
CHAPTER 10. SUBDIVISION BUILDING REGULATION
ARTICLE 10.05 PARKLAND DEDICATION**

Sec. 10.05.001 Purpose

- (a) *Findings.* The City Council of the City of Johnson City finds that recreational areas in the form of public parks are necessary for the well-being of residents. In addition, the City Council finds that the need for additional parkland and park amenities to serve new development is reasonably related to the approval of new residential development.
- (b) *Purpose.* The requirements contained in this Article are intended to ensure that there will be sufficient land and adequate park facilities dedicated in residential development to meet the demands and needs of the community and residents of those developments for recreational areas and amenities. This Article establishes a fair method for determining parkland dedication, or the payment of a fee in-lieu of dedication, to be required as a condition to the approval of new development in an amount proportionate to the impact of development on existing parks and established levels of service and establishes a development fee to fund park improvements.

Sec. 10.05.002 Definitions

For purposes of this Article, the following words, terms, and phrases are defined as follows except where the context clearly indicates a different meaning:

Applicant; Developer. A person or entity who submits a plat application for subdivision development in accordance with Chapter 10, Article 10.02 Subdivision Ordinance, to include the property owner(s), a duly authorized agent or representative of the property owner, or the developer; the person or entity must have sufficient legal authority or proprietary interests in the land.

Chief Administrative Officer; CAO. The City's Chief Administrative Officer or designee.

City. The City of Johnson City, Texas.

Dwelling unit. An individual residential unit, including each individual residential unit in a multi-family residential structure or manufactured home park, designed or intended for habitation by a single family.

Park purposes. Uses of parkland, but are limited to multipurpose trails, equestrian trails, open space buffer areas, swimming pools, active recreation for team or individual sports, playground, picnic area, and similar uses.

Person: An individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind, including commercial or residential subdivision development.

Recreational area. Parkland that is intended for organized sporting events, individual athletic exercise, playgrounds, and leisure activities, and typically has improvements designed to accommodate these types of activities; examples of uses include, but are not limited to, ballfields, swimming pools, playgrounds, ball courts, picnic tables, cabanas, shelters, and jogging tracks.

Sec. 10.05.003 Parkland and Improvements Required

(a) *Parkland dedication for residential development required.*

- (1) An applicant with residential properties shall provide for parkland dedication or a payment of cash in lieu of designated parkland in accordance with this Article.
- (2) Residential properties include:
 - (i) single-family and have more than five (5) dwelling units;
 - (ii) multifamily or condominium and have more than five (5) dwelling units; or
 - (iii) a combination of single-family and multi-family.

(b) *Park plan submission and review.*

- (1) An applicant shall prepare and submit a park plan detailing parkland and park improvements in conjunction with a plat application.
- (2) The park plan shall be reviewed and approved in accordance with the process applicable to the type of plat submitted.
- (3) Land to be dedicated for parkland shall be identified on the final plat.

(c) *Permits issued after acceptance.* Acceptance of public improvements shall not issue nor site permits shall be issued for any residential development unless and until parklands have been dedicated or cash paid in lieu of dedication in accordance with this Article.

(d) *Applicability.* This Article applies to all residential property within the City's corporate limits and the extraterritorial jurisdiction of the City, and for which City approval of applications submitted under the City's Subdivision Ordinance is sought.

(e) *Exemptions.* This Article shall not apply to properties:

- (1) In an application generating five dwelling units or less. An Applicant may not attempt to utilize this exemption by separating the project into a series of smaller projects. The exemption authorized by this Section may only be utilized once, and may not be applied to subsequent divisions of the property;
- (2) In an application where the lots or parts are greater than five (5) acres, and no public improvements are being made;
- (3) A replat of real property which has previously satisfied the park requirements in effect at the time of the initial approval and for which no increase in the number of dwelling units are proposed; or
- (4) For a valid preliminary or final plat application submitted before the effective date of this Article.

Sec. 10.05.004 Dedication Amount

- (a) *Ratio.* The amount of land to be dedicated for parkland shall be calculated at a ratio of one acre per 25 dwelling units for single and multi-family residential developments. For residential subdivisions with fewer than 25 dwelling units, parkland dedicated shall be five percent (5%) of the overall acreage of the property to be subdivided.
- (b) *Less than five acres.* Where less than five acres of parkland dedication are calculated and proposed, the CAO may:
 - (1) accept the land dedication;
 - (2) require payment of a fee-in-lieu of land dedication as specified herein; or
 - (3) accept a combination of land dedication and fee-in-lieu of as prescribed herein.
- (c) *Multi-phase or master plan development.* In the case of a multi-phase or master plan development, if the developer dedicates all parkland required in the first or early phase(s) of the development, no additional parkland dedication will be required in later phases unless additional lots that are not shown in the original master plan are included in the later phases of the development.
- (d) *Dedication amount review.* The City Council shall review the amount of land dedication required every two (2) years.

Sec. 10.05.005 Fee-in-Lieu of Parkland Dedication

(a) *Fee In-Lieu.*

(1) An applicant may meet the dedication requirements of this Article:

- (i) In whole by a fee payment in lieu of parkland; or
- (ii) In part by a combination of parkland dedication and a fee in lieu of the parkland dedication.

(2) An applicant shall pay a fee in-lieu of parkland dedication:

- (i) if the amount of parkland required to be dedicated is less than five (5) acres; or
- (ii) if the parkland to be dedicated is unacceptable, unavailable, or unsuitable under the standards established by the criteria for acceptance as described in this Article.

(3) A request for fee-in-lieu shall be reviewed for administrative approval by the CAO.

(b) *Fee amount.* The amount of the fee shall be as determined in the Master Fee Schedule, as amended, which shall take into account land values and costs of acquiring and developing a park.

(c) *Fee payment.*

(1) The applicant shall pay the fee-in-lieu to the City prior to filing the plat for record or prior to the issuance of a building permit where a plat is not required. No permit shall be issued, nor shall any construction be allowed to begin, until payment of all fees required has been made.

- (2) All funds collected pursuant to this Section shall be segregated in a separate fund to be spent only for the acquisition and improvements of parkland within the City that meet the needs of the residents of the development or subdivision to which such payment was made.

(d) *Fee review.* The City Council shall review the fees established every two (2) years.

Sec. 10.05.006 Criteria for Dedication and Acceptance

(a) *Standards for dedication of parkland.*

Land dedicated for parkland and recreational park purposes shall be of size, dimensions, topography, and general character, and location consistent with the following standards:

- (1) Floodplain and ponding areas may be deeded for parkland; however, at least 50% of the dedicated parkland shall be level, well-drained, and suitable for use as an open playfield.
 - (2) A minimum of fifty fee (50') of frontage contiguous with a public access way is required.
 - (3) The parkland dedication shall not include land required and utilized for utility easements.
 - (4) Water and wastewater connections shall be readily available at the park site with water and wastewater lines located along the street frontage of the park. The Applicant must demonstrate that there is sufficient water and wastewater utility line capacity available to serve the park.
 - (5) The area shall not be subject to any reservation of record, encumbrances of any kind, or easements which will interfere with the use of the land for park or recreational purposes.
 - (6) A site containing hazardous and / or municipal waste materials or an existing or prior dump site will not be accepted under any circumstance by the City for parkland dedication.
 - (7) Rare, unique, endangered, historic, or other significant natural areas will be given a high priority for dedication. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the City to be included in the parkland dedication.
 - (8) The minimum amount of land required to be dedicated as parkland shall be 5% of the total subdivision acreage proposed for residential use.
 - (9) Access to parkland for individuals with disabilities shall be provided in compliance with the Americans with Disabilities Act.
- (b) *Onsite inspection.* The CAO or designee shall have the right of entry to make an onsite inspection of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use.
- (c) *Identification of parkland dedication.* Each corner of the parkland dedication shall have an iron rod or pin set. In the absence of a plat, the location of iron rods or pins set for corners shall be identified on a recordable land survey and approved by the City.
- (d) *Plat application compliance; Conveyance to City.*
- (1) The area to be dedicated for the purpose of parkland shall be shown on the concept plan, the preliminary plat, and the final plat, and shall be included in the dedication statement. If the project is built in phases, designated parkland for the entire development shall be shown

on the preliminary plat and final plat for all phases. A plat application must include approval of compliance with this Article.

- (2) The Applicant shall dedicate parkland to the City as a part of the final plat approval. Prior to recording of the final plat, the Applicant shall deliver to the CAO the deed conveying fee simple title to the City of all parkland shown on the approved final plat. Where a plat is not required, the parkland shall be dedicated to the City prior to the issuance of a building permit in fee simple to the City through a general warranty deed and acceptable evidence of clear title and evidence that all taxes have been paid.

Sec. 10.05.007 Park Fund

- (a) *Park Fund established.* The City hereby creates a separate fund to be entitled “Park Fund.” Payments collected for a fee-in-lieu of parkland dedication shall be used by the City solely and exclusively for the purpose of purchasing, improving, and/or renovating public park and recreational land and shall not be used for current public park facility operations. Such fund shall be held in trust by the City and be invested or held in an interest-bearing account with all earnings and interest accruing to the Park Fund.
- (b) *Refunds.* The cash contributions must be expended within ten (10) years from the date of contribution. If at the end of the period, the contributions have not been expended, the Applicant is entitled to a refund of any remaining fees. If during the period, the plat is vacated or replatted for a less-intense use, the Applicant may request a partial refund of any unexpended balance on an annual *pro rata* basis. A refund request must be submitted in writing to the City within six (6) months of eligibility for the refund, or the right to receive the refund will be deemed waived and the funds shall remain as property of the City and be used for the general purpose of parkland acquisition, design, and development, as expressed in this Article.

Sec. 10.05.08 Private Parkland and Park Improvements

- (a) *Privately Owned & Maintained Parks.* An Applicant may submit to the City for review and approval a plan to provide privately owned and maintained parkland and park improvements meeting all requirements of this Article for use by a property owners’ or homeowners’ association.
- (b) *Requirements.* Such a plan shall include improvements that are valued at an amount that is equal to or exceeds the amount that Applicant would have been required to pay for fee in lieu of parkland dedication under this Article and shall also meet the following:
 - (1) Private ownership and perpetual maintenance of such areas and facilities shall be adequately provided for by recorded written agreement, conveyance, and/or restrictions.
 - (i) The conditions, covenants and restrictions (CCRs) and association documents, such as the articles of incorporation and association by-laws for a property owners’ or homeowners’ association, shall be submitted to the City for review and approval along with the preliminary plat application, and shall be filed of record at the county prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of these improvements.
 - (ii) Said documents must, at a minimum, include provisions that allow the City to take over the maintenance of common property, including but not limited to private streets

and private recreation facilities, using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct.

- (iii) Provisions shall also be included which would convey ownership to the City of the private streets (if any) and all other common areas, and which would allow the City to remove any improvements or amenities from the common areas and sell any buildable land area, as residential lots, to recoup the City's expenses for maintenance or demolition of the improvements. Any monies that remain after the City has recovered all of its expenses shall be retained for future maintenance or upgrading of the streets, common areas, screening walls, or other improvements within the subdivision.

- (2) The use of such areas and facilities in the plan shall be restricted to park and recreational purposes by a recorded covenant, which runs with the land in favor of the future owners of property, and which cannot be defeated or eliminated without the consent of the City Council.

Sec. 10.05.010 Approval and Appeal Process

- (a) The CAO shall review and approve all parkland dedication submitted pursuant to the administrative review process outlined in Section [redacted] of the Subdivision Ordinance.
- (b) Any decision made by the CAO under this Article may be appealed to the City Council, pursuant to the administrative review process outlined in Section [redacted] of the Subdivision Ordinance.