

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 9, "SUBDIVISIONS", SECTION 10, "REQUIREMENTS FOR PARKLAND DEDICATION", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 9, Section 10 "Requirements for Park Land Dedication", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty Five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 34 of the Charter of the City of College Station.

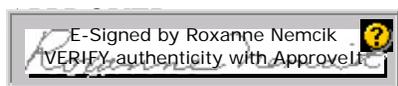
PASSED, ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

APPROVED:

\_\_\_\_\_  
RON SILVIA, Mayor

ATTEST:

\_\_\_\_\_  
Connie Hooks, City Secretary



\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

That Chapter 9, "Subdivisions", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Section 10: "Requirements for Park Land Dedication" by deleting Subsections 10A through 10H and substituting the following:

**"SECTION 10: Requirements For Parkland Dedication****10-A Purpose**

This section is adopted to provide recreational areas in the form of neighborhood park facilities as a function of subdivision and site development in the City of College Station. This section is enacted in accordance with the home rule powers of the City of College Station, granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code Chapter 212 (Vernon 1999; Vernon Supp. 2004-2005) as amended from time to time.

It is hereby declared by the City Council that recreational areas in the form of neighborhood parks are necessary and in the public welfare, and that the only adequate procedure to provide for neighborhood parks is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the city, whether such development consists of new construction on vacant land or rebuilding and remodeling of structures on existing residential property.

Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and located 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 of College Station 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 neighborhood 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, the following requirements are adopted to effect the purposes stated above and shall apply to any land to be used for residential purposes:

**10-B General Requirements**

The City Manager or his designee shall administer this Section 10, Requirements for Parkland Dedication with certain review, recommendation and approval authorities being

assigned to the Planning and Zoning Commission and the Parks and Recreation Advisory Board as specified herein.

Dedications shall cover both land acquisition and development costs for neighborhood parkland for all types of residential development. Dedications shall be based on actual dwelling units for the entire development. Increases or decreases in final unit count prior to final plat will require an adjustment in fees paid or land dedicated. If the actual number of dwelling units exceeds the original estimate additional parkland shall be dedicated in accordance with the requirements in this Section 10 with the filing of a final plat.

The methodology used to calculate fees and land dedications is attached hereto as Appendix 1 and incorporated and made a part of this ordinance for all purposes.

Fees paid under this Section may be used only for development or acquisition of a neighborhood park located within the same Zone as the development.

#### 1. Land Dedication

For single family developments the area of land to be dedicated for parkland purposes shall be equal to one (1) acre for each one hundred one (101) dwelling units. For duplex and other multi-family development this area shall be equal to one (1) acre for each one hundred twenty-five (125) dwelling units.

The total amount of land dedicated for the development shall be dedicated in fee simple by plat:

- a. Prior to the issuance of any building permits for multi-family development,
- b. Concurrently with the final plat for a single phase development,
- c. For a phased development the entire park shall be either platted concurrently with the plat of the first phase of the development or
- d. The developer may provide the City with financial security against the future dedication by providing a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit in the amount of the appraised value of the parkland. The amount of the financial guarantee is calculated by multiplying the number of acres of parkland required to be dedicated by the average value of an acre of land in the subdivision. The average value of an acre of land in the subdivision is calculated by dividing the fair market value of the land in the subdivision by the number

of acres in the subdivision. To make this calculation, the subdivider may select one of the following fair market value determinations:

- i. the current fair market value of the land as shown on the records of the tax appraisal district;
- ii. the current fair market value of the land as determined by a qualified real estate appraiser at the subdivider's expense, if the director of the Parks and Recreation Department approves the appraiser and certifies that the appraisal fairly reflects the land value; or
- iii. the current fair market value of the land as determined by a qualified real estate appraiser employed by the City.

The financial guarantee will be released to the developer, without interest, upon the filing of the final plat for the subsequent phase that dedicates the required park land.

## 2. Fee in Lieu of Land

The amount of the Fee-in-Lieu of Land ("Fee") shall be set at an amount sufficient to cover the costs of the acquisition of neighborhood parkland.

A landowner may elect to meet the requirements of Section 10.B.1, in whole or in part, by paying a fee in the amount set forth below. Before making this election, for any required dedication greater than three (3) acres, or for any development containing floodplain or greenway, the landowner must:

- a. Obtain a recommendation from the Parks and Recreation Advisory Board and
- b. Obtain approval from the Planning & Zoning Commission pursuant to the Plat Approval Procedures in Article 3.3 of the Unified Development Ordinance.

The fee shall be calculated as follows:

- One hundred Ninety-eight Dollars (\$198.00) per dwelling unit for single family development
- One hundred Sixty Dollars (\$160.00) per dwelling unit for duplex and multi-family development.

The total amount of the Fee calculated for the development shall be remitted:

- Prior to the issuance of any building permits for multi-family development or,
- Upon submission of each final plat for single family, duplex or townhouse development.

Fees may be used only for acquisition or development of a neighborhood park facility located within the same Zone as the development.

The City Manager or his designee is authorized to accept the Fee for dedications of less than three (3) acres where:

- There is a sufficient amount of parkland existing in the park zone of the proposed development; or
- The proposed dedication is insufficient for a Neighborhood Park site under existing park design standards.

This determination shall be made based on the Recreation, Park & Open Space Master Plan, as amended from time to time.

3. Park Development Fee

In addition to the land dedication, there shall also be a fee established that is sufficient to develop the land to meet the Manual of Neighborhood Park Improvements Standards to serve the zone in which such development is located. This fee shall be computed on the basis of Three Hundred Fifty-eight Dollars (\$358.00) per dwelling unit for single family developments and Two Hundred Ninety-two Dollars (\$292.00) for duplex and multi-family development. The total fee shall be paid upon submission of each final plat or upon application for a building permit, whichever is applicable.

4. Park Development Option in Lieu of Fee

A landowner may elect to construct the neighborhood park improvements in lieu of paying the Park Development Fee under the following terms and conditions:

- a. A park site plan, developed in cooperation with the Parks and Recreation Department staff, must be submitted to the City Manager or his designee for review. A site plan approved by the Director of Parks and Recreation and Parks and Recreation Advisory Board is required upon submission of each final plat or upon application for a building permit, whichever is applicable.

- b. Within twelve (12) months from the date of said submission or application the landowner shall submit detailed plans and specifications in compliance with the site plan to the City Manager or his designee for review and approval.
- c. All plans and specifications shall meet or exceed the Manual of Neighborhood Park Improvement Standards in effect at the time of the submission.
- d. If the improvements are constructed on land that has already been dedicated to and/or is owned by the City, then the Developer must post Payment and Performance Bonds to guarantee the payment to subcontractors and suppliers and to guarantee Developer completes the work in accordance with the approved plans, specifications, ordinances, other applicable laws and that City has issued a Certificate of Completion for the improvements.
- e. The construction of all improvements must be completed within two (2) years from the date of the approval of the plans and specifications. A final, one-time extension of twelve (12) months may be granted by the Administrator upon demonstration that said improvements are at least fifty percent (50%) constructed.
- f. Completion and Acceptance – Park development will be considered complete and a Certificate of Completion will be issued after the following requirements are met:
  - i. Improvements have been constructed in accordance with the Approved Plans.
  - ii. All parkland upon which the improvements have been constructed has been dedicated as required under this ordinance.
  - iii. All manufacturer's warranties have been provided for any equipment.
- g. Upon issuance of a Certificate of Completion, Developer warrants the improvements for a period of one (1) year as per the requirements in the Manual of Neighborhood Park Improvements Standards.
- h. The developer shall be liable for any costs required to complete park development if:
  - i. Developer fails to complete the improvements in accordance with the Approved Plans.

- ii. Developer fails to complete any warranty work.
5. Reimbursement for City Acquired Parkland

The City may from time to time acquire land for parks in or near an area of actual or potential development. If the City does acquire park land in a park zone, the City may require subsequent parkland dedications for that zone to be in Fee-in Lieu-of-Land only. This will be to reimburse the City for the cost(s) of acquisition. Once the City has been reimbursed entirely for all such parkland within a park zone, this Section shall cease to apply.

#### 10-C Prior Dedication or Absence of Prior Dedication

If a dedication requirement arose prior to enactment of this Section 10, that dedication requirement shall be controlled by the ordinance in effect at the time such obligation arose, except that additional dedication shall be required if the actual density of structures constructed upon property is greater than the former assumed density. Additional dedication shall be required only for the increase in density and shall be based upon the ratio set forth in Section 10.B. (Credit shall be given for land dedicated or fees paid pursuant to prior parkland Ordinance Nos. 690, 983 or 2546.)

#### 10-D Comprehensive Plan Considerations

The Recreation, Park and Open Space Master Plan is intended to provide the College Station Parks and Recreation Advisory Board with a guide upon which to base its recommendations. Because of the need to consider specific characteristics in the site selection process, the park locations indicated on the Plan are general. The actual locations, sizes, and number of parks will be determined when development occurs. The Plan will also be used to locate desirable park sites before development occurs, and those sites may be acquired by the City or received as donations.

Park Zones are established by the City's Comprehensive Plan, in the Park and Open Space element and are configured to indicate service areas for neighborhood parks. Zone boundaries are established that follow key topographic features such as major thoroughfares, streams, and city limit lines.

#### 10-E Special Fund; Right to Refund

1. All parkland fees will be deposited in a fund referenced to the park zone involved. Funds deposited into a particular park zone fund may only be expended for land or improvements in that zone.
2. The City shall account for all fees-in-lieu-of land paid under this Section with reference to the individual plat(s) involved. Any fees paid for such purposes must

be expended by the City within five (5) years from the date received by the City for acquisition and/or development of a neighborhood park as defined herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the landowners of the property on the expiration of such period shall be entitled to a prorated refund of such sum, computed on a square footage of area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

#### 10-F Parkland Guidelines and Requirements

Parks should be easy to access and open to public view so as to benefit area development, enhance the visual character of the city, protect public safety and minimize conflict with adjacent land uses. The following guidelines and requirements shall be used in designing parks and adjacent development.

1. Any land dedicated to the city under this section must be suitable for park and recreation uses. The dedication shall be free and clear of any and all liens and encumbrances that interfere with its use for park purposes. The City Manager or his designee shall determine whether any encumbrances interfere with park use. Minerals may be reserved from the conveyance provided that there is a complete waiver of the surface use by all mineral owners and lessees. A current title report must be provided with the land dedication. The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the Brazos County Tax Assessor shall be submitted with the dedication or plat.
2. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain as long as, due to its elevation, it is suitable for park improvements. Sites should not be severely sloping or have unusual topography which would render the land unusable for organized recreational activities.
3. Land in floodplains or designated greenways will be considered on a two for one basis. Two acres of floodplain or greenway will be equal to one acre of parkland
4. Where feasible, park sites should be located adjacent to greenways and/or schools in order to encourage both shared facilities and the potential co-development of new sites.
5. Neighborhood park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located so that users are not required to cross arterial roadways to access them.
6. Sites should have existing trees or other scenic elements.

7. Detention / retention areas will not be accepted as part of the required dedication, but may be accepted in addition to the required dedication. If accepted as part of the park, the detention / retention area design must be approved by the City Manager or his designee and must meet specific parks specifications in the Manual of Neighborhood Park Improvements Standards.
8. Where park sites are adjacent to Greenways, Schools existing or proposed subdivisions, access ways may be required to facilitate public access to provide public access to parks.
9. It is desirable that fifty percent (50%) of the perimeter of a park should abut a public street.

#### 10-G Consideration and Approval

Any proposal considered by the Planning and Zoning Commission under this Section shall have been reviewed by the Parks and Recreation Advisory Board or the City Manager or his designee as provided herein, and a recommendation given to the Commission. The Commission may make a decision contrary to the recommendation by a majority vote.

#### 10-H Review of Land Dedication Requirements and Dedication and Development Fee

The City shall review the Fees established and amount of land dedication required at least once every three (3) years. The City shall take into account inflation as it affects land acquisition and park development costs as well as the City's targeted level of service for parkland per one thousand population. Fees are authorized to be set by resolution of the City Council.

#### 10-I Warranty Required

All materials and equipment provided to the City shall be new unless otherwise approved in advance by the City Manager or his designee and that all work will be of good quality, free from faults and defects, and in conformance with the designs, plans, specifications, and drawings, and recognized industry standards. This warranty, any other warranties express or implied, and any other consumer rights, shall inure to the benefit of the City only and are not made for the benefit of any party other than the City.

All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

This warranty is in addition to any rights or warranties expressed or implied by law.

Where more than a one (1) year warranty is specified in the applicable plans, specifications, or submittals for individual products, work, or materials, the longer warranty shall govern.

This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Ordinance.

**Defective Work Discovered During Warranty Period.** If any of the work is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this ordinance, the designs, plans, drawings or specifications within one (1) year after the date of the issuance of a certificate of Final Completion of the work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this ordinance, Developer shall promptly correct the defective work at no cost to the City.

During the applicable warranty period and after receipt of written notice from the City to begin corrective work, Developer shall promptly begin the corrective work. The obligation to correct any defective work shall be enforceable under this code of ordinances. The guarantee to correct the defective work shall not constitute the exclusive remedy of the City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

If within twenty (20) calendar days after the City has notified Developer of a defect, failure, or abnormality in the work, Developer has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by Developer.

The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by Developer, its contractors, or subcontractors or by the surety.

The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all work, equipment, and materials that are part of the improvements made under this section of the ordinance.“