

ORDINANCE NO. 21-24

AN ORDINANCE REPEALING AND REORDAINING PART 12 (PARK AND SCHOOL SITE DEDICATIONS) OF ARTICLE 7 (SUBDIVISION REGULATIONS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO PARK LAND DEDICATION

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Part 12 (Park and School Site Dedications) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is repealed and reordained as follows:

PART 12 PARK SITE DEDICATIONS

7.7.1201: POLICY AND PURPOSE:

7.7.1202: DEFINITIONS:

7.7.1203: PARK STANDARDS:

7.7.1204: DEDICATION OF LAND, REMITTANCE OF PARK FEES REQUIRED FOR NEIGHBORHOOD AND COMMUNITY PARK USES:

7.7.1205: ALTERNATIVE COMPLIANCE:

7.7.1206: PLAT REQUIREMENTS FOR PARK LAND DEDICATION:

7.7.1207: REVIEW OF REQUIREMENTS:

7.7.1208: REPLATTING OR RESUBDIVIDING:

7.7.1209: PARK LAND DEDICATION ORDINANCE CRITERIA MANUAL:

7.7.1210: APPLICABILITY OF PROVISIONS:

7.7.1201: POLICY AND PURPOSE:

It is hereby declared to be the policy of the City that whenever land is proposed for Residential Development, the owner of the land should provide for land for park needs generated by the proposed Residential Development through dedication of land, payment of park fees in lieu of land dedication, or fulfillment of the dedication requirement by Alternative Compliance. It is the purpose of this part to require the dedication of land, payment of park fees in lieu of land dedication, Alternative Compliance in lieu of land dedication, or a combination thereof, as determined by the City, to fulfill such park needs.

7.7.1202: DEFINITIONS:

The following terms shall have the meanings below, as used in this part 12:

ALTERNATIVE COMPLIANCE: Alternate methods of complying with the park land dedication requirement as specifically enumerated in section 7.7.1205 of this part.

COMMUNITY PARK: Community parks range in size from twenty-five (25) to one hundred (100) acres. Typical facilities in Community parks include those found in Neighborhood Parks, plus athletic fields, aquatic centers, sport courts, restrooms and parking areas that serve City wide park needs.

GEOGRAPHIC SERVICE AREA: An area designated on the Geographic Services Area Map within which Neighborhood Parks are intended to collectively serve the residents within the identified service area. Geographic Service Areas do not include county enclaves or other land outside of the City limits.

NEIGHBORHOOD PARK: Neighborhood Parks range in size from three and one-half (3.5) to twenty-five (25) acres and serve residents within the Geographic Service Areas. Facilities and improvements typically found in Neighborhood Parks include playground equipment, sport courts, landscaping, picnic areas and informal fields.

PARK FEE(S): Consists of two parts, (1) the fee for an average value for one (1) acre of unplatted, undeveloped land Citywide, and (2) the applicable Platting Fees for the amount of land that Subdivider is responsible for dedicating based on the location of the Subdivision generating the required dedication.

PARKS MANAGER: The person, appointed by and reporting directly to the Mayor, charged with administrative responsibility for parks, recreation and cultural services, or the Parks Manager's designated representative.

PLATTING FEES: One part of the Park Fee calculation, consisting of review fees, drainage fees based on the location of the subdivision, and any other generally applicable fees that are due upon platting or prior to issuance of a building permit.

PLAZA: An open area usually located adjacent to buildings and often featuring walkways, trees and shrubs, and community gathering places.

MINI PARK: Mini parks range in size from one-quarter (.25) acres to three and one-half (3.5) acres and serve residents within a one-half (.5) mile radius. Facilities and improvements typically found in Mini parks are limited due to the size of the park but may include playground equipment, landscaping, and picnic areas.

RESIDENTIAL DEVELOPMENT: Residential Use Types, as defined in section 7.2.302(A) of this code, including Attached Dwelling Unit; Accessory Dwelling Unit; Dormitory, Fraternity or Sorority House; Mobile Home; Mobile Home Park; Multi-Family Dwelling; Retirement Home; Rooming or Boarding House; Single-Family Dwelling Detached; Studio or Efficiency; Two-Family Dwelling; and Human Service Establishments. However, the following types of Human Service Establishments are excluded from the definition of

Residential Development: Hospice; Residential Childcare Facility; Domestic Violence Safe House, Family Support Residence, Human Service Shelter and Detoxification Center.

SPECIAL PURPOSE PARK: Park lands that can include Plazas or similar hardscape areas which vary in size and often provide developed recreational facilities, typically located within the downtown area.

SUBDIVIDER: The owner of property, or owner's agent, who makes an application to the City to develop land for Residential Development and which generates park land needs pursuant to this part 12.

7.7.1203: PARK STANDARDS:

In the interest of the health, safety and general welfare of the people of the City, the park area standards set forth in this part are adopted to provide a guide to facilitate adequate provision of park land as the City develops.

It is hereby found and determined:

A. That a part of the public need for parks generated by an increase in population should be provided for by required dedication of land, Park Fees in lieu of land dedication, fulfillment of the dedication requirement by Alternative Compliance, or a combination thereof as determined by the City as a condition of final plat approval.

B. That it is reasonable to require the dedication of park land or payment of Park Fees to provide the following facilities:

1. Neighborhood Parks resulting in a requirement of two and one-half (2.5) acres per one thousand (1,000) persons; and
2. Community parks resulting in a requirement of three (3.0) acres per one thousand (1,000) persons.

C. That the 2018 American Community Survey administered by the United States Census Bureau shows that, in the City, there is the following average number of persons per the following residential structure types:

Single family detached residential structure	2.58 persons
2-4 units in residential structure	2.10 persons
5-19 units in residential structure	1.87 persons
20-49 units in residential structure	1.75 persons
50 units or more in residential structure	1.63 persons

D. That the resulting requirements of land to be dedicated per residential dwelling unit for Neighborhood parks is as follows:

Single family detached residential structure	0.0064 acres or 281 square feet
2-4 units in residential structure	0.0052 acres or 229 square feet
5-19 units in residential structure	0.0047 acres or 204 square feet
20-49 units in residential structure	0.0047 acres or 191 square feet
50 units or more in residential structure	0.0040 acres or 178 square feet

E. That the resulting requirements of land to be dedicated per residential dwelling unit for Community parks is as follows:

Single family detached residential structure	0.0077 acres or 337 square feet
2-4 units in residential structure	0.00623 acres or 274 square feet
5-19 units in residential structure	0.00568 acres or 244 square feet
20-49 units in residential structure	0.00565 acres or 229 square feet
50 units or more in residential structure	0.00478 acres or 213 square feet

F. That the City's requirements for regional parks, sports complexes, trail corridors, open spaces and special facilities should generally be obtained from sources other than those set forth in this part, unless agreed pursuant to an Alternative Compliance agreement.

G. That, pursuant to the requirements contained in section 7.7.1207 of this part, the average number of persons dwelling in residential units by structure types be reviewed every four (4) years to reflect current data from the United States Census Bureau.

7.7.1204: DEDICATION OF LAND OR REMITTANCE OF PARK FEES REQUIRED FOR NEIGHBORHOOD PARKS AND COMMUNITY PARKS:

As a condition of final plat approval or building permit issuance for each Residential Development, as applicable, every Subdivider shall dedicate land areas for parks at the time of plat, agree to pay Park Fees at building permit, or agree to Alternative Compliance by written agreement at the time of plat, as set forth in this part. Approval of Accessory Dwelling Units shall pay required fees in lieu of land dedication at the time of building permit.

A. Choice of Land Dedication or Park Fee in Lieu of Land Dedication:

1. Neighborhood Park and Community Park Land Dedication: Dedication of land for Neighborhood and Community parks shall be as set forth in section 7.7.1203. Any land to be dedicated as a requirement of this part shall be adaptable for use as a Neighborhood park or Community park as determined solely within the discretion of the Parks Manager. Factors used to evaluate the adequacy of proposed park areas shall include, but not be limited to, size and shape, topography, geology, flora and fauna, access, location, and conformance with City's Parks System Master Plan.

2. Action of the City: At the time of filing of a preliminary plat or final plat, the Parks Department shall indicate whether land dedication, Park Fees, or

Alternative Compliance are required. If the City desires land dedication, the Subdivider shall designate the area to be dedicated by the preliminary and final plat.

3. Prerequisites for Approval of a Preliminary or Final Plat: Dedication when required shall be accomplished by plat dedication. The Subdivider shall be required to convey clear title to the land to be dedicated to the City pursuant to the City's Subdivision Code, Article 7 of this chapter.

B. Park Fees in Lieu of Land Dedication:

1. When the City determines Park Fees are required in lieu of land dedication, the Park Fees due for each lot shall be paid to the City prior to the issuance of any building permit for the lot.

2. City Expenditure of Park Fees Collected:

a. Neighborhood Park Fees: Neighborhood Parks are intended to serve neighborhoods within a Geographic Service Area. Park Fees collected by the City for Neighborhood park dedication shall be applied within the same Geographic Service Area or an adjacent Geographic Service Area to the development in order to benefit the neighborhood for which the Park Fees were paid.

b. Community Park Fees: Community parks are intended to serve as destination parks for all City residents. Park Fees collected by the City for Community park dedication may be applied anywhere within the City to acquire, develop, or redevelop Community parks.

7.7.1205: ALTERNATIVE COMPLIANCE:

The City or the Subdivider may propose fulfillment of a requirement to dedicate land by Alternative Compliance. The Parks Manager shall make the final determination of whether the proposed Residential Development can be adequately served by Alternative Compliance. The Parks Manager's decision shall be guided by the PLDO Criteria Manual. Parks Manager approval shall be conditioned on the execution of an Alternative Compliance Agreement. The Alternative Compliance Agreement shall be contingent upon all appropriate land use approvals by the City. If the Parks Manager denies the request for Alternative Compliance, then the Subdivider shall be required to dedicate land or pay Park Fees in lieu of land dedication as provided in section 7.7.1204. The decision of the Parks Manager of whether to approve Alternative Compliance is administrative and not subject to appeal.

The following park types, or a combination thereof, may be considered Alternative Compliance:

A. Neighborhood Park Land Owned by Metropolitan Districts; Special Districts, and Common Interest Community Associations: Where non City-owned land for park

purposes is provided and such land is to be used and maintained by or for the future residents of the development for park related purposes, such areas may be credited against the requirement of land dedication for Neighborhood park purposes up to a maximum of one hundred percent (100%) of the dedication requirement depending upon the extent to which the land serves the overall park and recreation needs of the future residents of the development, provided that the following standards are met:

1. That building and parking setbacks required to be maintained under the zoning and building regulations shall not be included in the computation of such land;
2. That the operation and maintenance of the land is adequately provided for by written agreement with the City;
3. That reasonable rules and regulations are established for the land and that the land remains accessible to the general public for park related uses;
4. That the use of the land is permanently designated for park purposes, by recorded document such as an easement, covenant, or by deed restriction which runs with the land and which cannot be defeated or eliminated without the consent of the City Council;
5. That the proposed land is reasonably adaptable for use for Neighborhood park purposes, taking into consideration such factors as size, shape, topography, geology, access and location; and
6. That a land use development plan or park development plan is approved by the City.

B. Multiuse Trail Corridors: For purposes of Neighborhood and Community park land dedication requirements, where approved by the Parks Manager, land for trails may be substituted for land dedication for either Neighborhood or Community parks. No trail dedication will be accepted unless the proposed trail dedication is consistent with the multiuse trail system identified within the City's Park System Master Plan, is within the land use master planned area, and is adjacent to, or within, the developed area. Land for trail corridors a minimum of fifty feet (50') wide may be credited in whole or in part against the requirement of dedication for Neighborhood and Community park purposes up to a maximum of one hundred percent (100%) of the dedication requirement. The portion of the trail dedication which satisfies Neighborhood park land dedication requirements must be located within the same Geographic Service Area serving the Subdivider's Residential Development.

C. Open Space: For purposes of park land dedication requirements, land for open space may be substituted for land for Neighborhood and Community parks. Acceptance of open space in lieu of Neighborhood and Community park land dedication shall be consistent with the Open Space Candidate Areas identified within the City's Park System Master Plan and exhibit significant natural resources and open

space values. Open Space may be partially credited against the requirement of dedication for Neighborhood and Community park purposes up to a maximum of fifty percent (50%) of the park land dedication requirement.

D. Mini Parks, Plazas, Special Purpose Parks and Other Alternative Forms of Park Lands: For purposes of Neighborhood park land dedication requirements or payment of Park Fees in lieu of land dedication, where mini parks, plazas, special purpose parks or other alternative forms of park related lands are appropriate to meet park needs, mini parks, plazas, special purpose parks or other alternative forms of park related lands may be substituted for land for Neighborhood Parks, but not Community parks. Such areas may be credited in whole or in part against the requirement of dedication for park purposes up to a maximum of one hundred percent (100%) of the dedication requirement. If the land is not City-owned, then the requirements of section 7.7.1205(A)(1)-(6) shall apply.

E. Acceptance of Park Facility Construction or Expansion of Existing Park Facilities in Lieu of Park Land Dedication: For purposes of park land dedication requirements, when the Parks Manager determines that park facility construction or expansion of an existing park facility is needed to serve the Residential Development, construction of park facilities may be substituted for park land dedication. Such areas may be credited in whole or in part against the requirement of dedication for park purposes up to a maximum of one hundred percent (100%) of the park land dedication requirement provided the following standards are met:

1. That the Subdivider and the City enter into a written agreement that identifies the specific terms and conditions for construction and expansion;
2. That new park facility construction and expansion otherwise required by zoning and building regulations shall not be included in the computation of the park land dedication requirement;
3. That a land use development plan or park development plan is approved by the City;
4. That the proposed park facility construction or expansion to be substituted for Neighborhood park dedication requirements is located within the same Geographic Service Area serving the Subdivider's Residential Development; and
5. That the proposed park facility construction or expansion is in conformance with and supports the City's Park System Master Plan.

7.7.1206: PLAT REQUIREMENTS FOR PARK LAND DEDICATION:

A. Unless otherwise provided, the Subdivider shall plat any designated park areas and shall indicate the number of acres proposed for residential uses, the number of lots, number and type of proposed dwelling units, and the number of dwelling units within each structure. The plat shall identify land dedicated to the City and reference any

easement, covenant, or deed restrictions applicable to private park land. Dedication or conveyance and acceptance of the land shall state that land is to be used for park purposes.

B. Any easement, covenants, or deed restrictions for private park land shall be submitted to the City prior to approval of the final plat and shall be recorded contemporaneously with the final plat.

7.7.1207: REVIEW OF REQUIREMENTS:

A. Once every four (4) years, the Parks Board and the Planning Commission shall review this part and pertinent dwelling density data, and provide a recommendation to the City Council as to the need to amend this part.

B. Setting Park Fees: City Council shall establish Park Fees, by resolution, once every four (4) years. In addition to applicable Platting Fees, Park Fees shall include a benchmark average value for one (1) acre of unplatted, undeveloped land Citywide. Beginning in the year 2021 and every subsequent four (4) years, the Parks Department shall request that the City's Real Estate Services Manager contract with a certified land appraiser doing business in the City, to conduct a study of the land value for one (1) acre of unplatted, undeveloped land Citywide and in each of the Geographic Service Areas. The Parks Manager shall present the study to the Parks Board and to the Planning Commission. The Parks Board and Planning Commission shall each then make a recommendation for Park Fees to City Council. Park Fees shall be administratively updated to include any Platting Fees that are amended from time to time.

C. By resolution, City Council shall adopt or amend the Geographic Service Areas boundaries, as necessary. City Council shall provide for not fewer than eight (8) Geographic Service Areas within the City, which shall be designated in a manner to ensure that park services are located in reasonable proximity to residential development.

7.7.1208: REPLATTING OR RESUBDIVIDING:

The following considerations will be taken into account when reviewing any replat of land platted prior to September 6, 1973, for which land Park Fees were paid or land was dedicated:

A. If such replat is to correct engineering errors (legal descriptions), the replat will be exempt from this part.

B. If the Subdivider provides documentation that Park Fees have been paid or land dedicated, or both, the land replatted shall be exempt from the provisions of this part unless the replat results in an increase of residential density. If residential density is increased, the owner shall pay the Park Fees in those amounts set forth in this part as applied to the new residential units. If residential density is decreased, the provisions of this part shall not apply. No credit for land or fees previously dedicated or paid will be granted in the event a replat results in a decrease of residential density.

7.7.1209: PARK LAND DEDICATION ORDINANCE CRITERIA MANUAL:

The City Council shall review and adopt by resolution a Park Land Dedication Ordinance Criteria Manual ("PLDO Criteria Manual") which may be amended from time to time and which provides the Parks, Recreation and Cultural Services Department policies and standard procedures regarding the administration of this part.

7.7.1210: APPLICABILITY OF PROVISIONS:

This part shall apply to all plats which have not satisfied both of the following conditions prior to August 28, 1974:

- A. The preliminary or final plat must have been approved by the City Council or the Board of County Commissioners of the County of El Paso; and
- B. The preliminary or final plat must have satisfied all prerequisites of plat approval imposed by this chapter and all provisions and stipulations imposed by the City Council or all prerequisites of plat approval imposed by the Board of County Commissioners of the County of El Paso.

Section 2. Council adopts the findings of facts and conclusions of law set forth in Exhibit A attached hereto.

Section 3. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 4. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this 9th day of February, 2021.


Finally passed: February 23rd, 2021



Council President

Mayor's Action:

- Approved on February 25, 2021.
- Disapproved on _____, based on the following objections:



Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:


Sarah B. Johnson, City Clerk



CAO: TJF
COS: _____

I HEREBY CERTIFY, that the foregoing ordinance entitled “AN ORDINANCE REPEALING AND REORDAINING PART 12 (PARK AND SCHOOL SITE DEDICATIONS) OF ARTICLE 7 (SUBDIVISION REGULATIONS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO PARK LAND DEDICATION” was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on February 9th, 2021; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 23rd day of February 2021, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Gazette on March 1st, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 25th day of February 2021.


Sarah B. Johnson, City Clerk



1st Publication Date: February 12th, 2021
2nd Publication Date: March 1st, 2021

Effective Date: March 6th, 2021

Initial: SBS
City Clerk

EXHIBIT A

FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED
THEREON AND DETERMINING THE ESSENTIAL NEXUS AND
ROUGH PROPORTIONALITY FOR NEW RESIDENTIAL
DEVELOPMENT PARK LAND DEDICATION REQUIREMENTS

WHEREAS, the City Council of the City of Colorado Springs has conducted a hearing to consider a Park Land Dedication Ordinance (the "Ordinance"), requiring dedication of new parkland or payment of fees in lieu of dedication for new residential developments within the City;

WHEREAS, at the hearing, City Council considered facts and evidence regarding whether an essential nexus exists for the City to require developers of new residential developments to dedicate parkland or pay fees in lieu and whether the required level of dedication and amount of fees are roughly proportional to the need for new parkland generated by new residential developments;

WHEREAS, on November 12, 2020, the Parks Board of the City of Colorado Springs held a public hearing in order to consider the Park Land Dedication Ordinance and to provide advice to City Council;

WHEREAS, on December 17, 2020, the Planning Commission of the City of Colorado Springs held a public hearing to consider the Park Land Dedication Ordinance and provide advice to City Council;

WHEREAS, the facts and evidence presented to, and the recommendations made by, the Parks Board and the Planning Commission have been taken into consideration by the City Council;

WHEREAS, it is necessary for City Council to make findings of essential nexus and rough proportionality when setting requirements for land use exactions such as parkland dedication, and to make additional findings of fact and conclusions of law to support its findings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. City Council finds that essential nexus exists for the City to require developers of new residential developments to dedicate parkland or to pay fees in lieu of dedication based upon the finding that:

- (a) there is a legitimate governmental interest in providing parkland for City residents;
- (b) cities throughout Colorado and the United States provide parks for their residents, beginning with Boston Common in 1634;
- (c) parks promote public health and wellbeing by providing opportunities and resources for outdoor recreation and exercise;
- (d) the City currently provides approximately five and one-half (5.5) acres of combined neighborhood and community parks per one thousand (1,000) City residents (the "Level of Service");
- (e) the population of the City is growing rapidly, adding approximately sixty-two thousand (62,000) new residents between 2010 and 2019, according to the US Census Bureau;
- (f) development of rural areas at urban and suburban density, together with infill development in existing neighborhoods, creates a need for new and expanded parks to serve new residents;
- (g) without new parks, existing parks will have to serve greater numbers of residents, which erodes the existing Level of Service and increases maintenance costs;
- (h) crowding in existing parks reduces the enjoyment of parks by residents;
- (i) areas of likely future development in Banning Lewis Ranch and other areas of likely annexation and development north and east of the City are distant from existing parks, and new parks will be required in order to provide parks near to new residents;
- (j) new neighborhood and community parks will be required for new residents in order to avoid issues of overcrowding and overuse of existing parks.

Section 2. City Council further finds that a requirement of dedication of five and one-

half (5.5) acres of parkland per one thousand (1,000) approximate new residents, or fees in lieu of dedication, is roughly proportional in nature and extent to the needs created by new residential development based upon the finding that:

- (a) the findings of Section 1 support the findings of fact and conclusions of law in Section 2;
- (b) in order to maintain the Level of Service for new and existing residents, it is reasonable and necessary to require developers of new residential developments to dedicate land or pay fees in lieu of dedication at a rate approximately equal to the Level of Service;
- (c) Colorado Springs has an average density per dwelling unit as shown by US Census Bureau data and as incorporated into the Ordinance;
- (d) dedication requirements as set forth in the Ordinance are roughly proportional to the Level of Service and to the need created by new development;
- (e) based on a real property appraisal report prepared by East West Econometrics, dated effective on May 1, 2020 and revised on July 29, 2020 (the "Appraisal"), which was commissioned by the City, the average value of a square foot of land that is reasonably susceptible to use as a neighborhood park is \$3.16;
- (f) based on the Appraisal, the average value of a square foot of land that is reasonably susceptible to use as a community park is \$2.25;
- (g) dedicated lands are by definition platted, and platting is required by City Code prior to development of neighborhood and community parks;
- (h) in order to maintain equality between dedication of land and payment fees in lieu, fees in lieu of dedication should include costs incidental to platting;
- (i) fees in lieu of dedication at the rate set forth in the resolution accompanying the Ordinance are roughly proportional to the Level of Service and to the need created by new development.

Section 3. Council further finds that the Ordinance reflects these findings of fact and conclusions of law and meets requirements of essential nexus and rough proportionality.