

**PARK LAND DEDICATION
ORDINANCE**

TOWN OF LAKEWOOD VILLAGE, TEXAS



**As Adopted by Ordinance No. 15-18
December 10th, 2015**

TOWN OF LAKEWOOD VILLAGE, TEXAS

ORDINANCE NO. 15-18

AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, PROVIDING FOR PARK LAND DEDICATION OR THE PAYMENT OF FEES IN LIEU THEREOF; AND PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, Chapter 212 – Municipal Regulation of Subdivisions and Property Development of the Texas Local Government Code, authorizes a municipality to adopt rules governing plats and subdivisions of land within the municipality and the municipality’s extraterritorial jurisdiction; and

WHEREAS, Chapter 51 – General Powers of Municipalities of the Texas Local Government Code, 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; and

WHEREAS, the Town Council of Lakewood Village has determined that public parks, (parks, trails, open spaces and recreational areas), are necessary for the public health and general welfare of the citizens of the Town; and

WHEREAS, the Town of Lakewood Village and extraterritorial jurisdiction are adjacent to the Lake Lewisville wildlife conservation area maintained by the United States; and

WHEREAS, the Town Council has determined that requiring open spaces which encourage the preservation and conservation of land for wildlife habitat or areas of natural significance is consistent with and supports the USACE mission and is mutually beneficial to the Town and the United States; and

WHEREAS, the Town Council of Lakewood Village finds that the development of residential and non-residential properties or subdivisions necessitates that parks and open spaces be created to reduce congestion, provide for adequate recreation areas, and meet the needs of future residents;

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS:

1. PURPOSE AND INTENT

This ordinance is adopted to provide recreational areas and amenities in the form of neighborhood public parks in the town. Public parks, trails, open spaces and recreational areas are necessary for the public health and general welfare of the citizens of Lakewood Village. The necessity to provide for public parks is generated by the development of residential property or subdivisions and as such will be regulated in the project's planning and development process (platting and permitting).

New residential development creates the need for additional park and recreation facilities. The requirements for park and recreational areas contained in this ordinance are intended 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. The town has considered the projected growth in population and development within the town and extraterritorial jurisdiction and the amount of neighborhood park facilities needed to accommodate such growth as stated in the Lakewood Village Parks Master Plan.

2. APPLICABILITY

(a) This ordinance applies to all property for which a final plat has not been formally submitted to the Town for approval, unless otherwise noted herein.

(b) The provisions of this ordinance shall apply to the corporate limits as well as the extraterritorial jurisdiction of the Town of Lakewood Village. Property in the extraterritorial jurisdiction subdividing after the effective date of this ordinance shall not be permitted to be utilized for residential use unless this ordinance has been complied with.

(c) 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.

(d) New developments or redevelopments that involve only the replacement or reconstruction of pre-existing dwelling units shall be exempt from the provisions of this article, provided that the developments do not increase the density of the pre-existing dwelling units.

3. DEFINITIONS.

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

DWELLING UNIT. Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one family.

PARKS PLAN. The Lakewood Village Parks Master Plan

PUBLIC PARK. Includes a variety of parks, trails, open spaces and recreational opportunities that are open to the general public and are located within a convenient distance of the residences to be served thereby. Land utilized for utility easements or thoroughfare right-of-ways cannot be used to meet public park requirements.

TOWN. The municipal boundary and extraterritorial jurisdiction of the Town of Lakewood Village.

TRAIL. A system of off-road hike and bike paths constructed on an improved surface. Trails do not include side-walks that are adjacent to roads or thoroughfares.

4. REQUIREMENTS

Public Park dedications shall comply with the locations shown on the Lakewood Village Parks Master Plan, which is hereby adopted by reference and incorporated herein for all purposes.

(a) General requirements

(1) The area dedicated for park land shall be no less than one acre for each 25 proposed dwelling units or the prorated portion thereof. With the consent of the Town, the required dedication may be met by payment of cash in lieu of land.

(2) Any proposed plat submitted to the town for approval shall identify the proposed public park land to be dedicated. The final plat will contain a clear fee simple dedication of the land to the Town of Lakewood Village for public park use.

(3) The obligation of an applicant/developer to dedicate park land or make payments in lieu thereof shall be in addition to and independent of the requirements of the applicant/developer to provide open space in accordance with a Planned Development (PD) zoning application. If the open space in the proposed Planned Development (PD) exceeds 10% of the project area and is dedicated and accepted by the city as public park land, the required dedication or payment may be reduced by the Town.

(4) Access to the park land shall be available from public rights-of-way. 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.

(5) Construction of a trail must be completed in conjunction with all other public improvements/infrastructure and approved by the Town. All improvements or construction on or within the dedicated area to be installed by the applicant/developer shall be completed in accordance with the approved construction plans. Finished projects shall be maintainable and acceptable as determined by the Town Engineer.

(6) For dedications of more than three acres of land or upon the request of the Town Engineer, a developer-funded environmental study, audit or assessment may be required demonstrating that the property is: (i) in a condition that allows the town to utilize the property for public park purposes without expenditures to remove environmental or hazardous materials; (ii) suitable and safe for use as a public park; and (iii) free from environmentally-related problems.

(7) Unless approved in writing by the Town, no construction materials shall be disposed of or deposited within the dedicated park land by the developer or its contractors, subcontractors, employees, or agents, at any time while the subdivision is being built. If materials are deposited or disposed of within the park, the developer shall remove such materials within forty-eight hours of written notice by the Town. If the developer fails to remove the materials after notice, the Town may do so at the developer's expense.

(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 Town 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 twenty non-residential gross acres of development or prorated portion thereof.

(c) Off-site Dedications

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

5. SUBMITTALS

(a) Proposed park areas shall be presented as part of the preliminary plat.

(b) Prior to the issuance of a building permit for the erection of any house within the subdivision, the subdivider shall apply to the Town for written acceptance of the park land. As part of the application:

(1) The subdivider shall permanently mark each corner of the park site with a three-quarter inch (3/4") iron pin set in concrete.

(2) The subdivider shall provide the Town with a survey acceptable to the Town reflecting each corner monument, showing and locating any encroachments, easements and providing a metes and bounds description of the park land.

(c) Fees paid in lieu of dedication shall be paid prior to the Town issuing any building permits.

6. FEES PAID IN LIEU OF PARK LAND DEDICATION

(a) An owner or developer responsible for park land dedication under this article may be required, at the Town's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land in the amount set forth below. All funds collected pursuant to this section shall be used solely for the acquisition and improvement of park land.

(b) In instances where land is required to be dedicated, the Town shall have the right to reject the park land dedication and require a cash payment in lieu of land in the amount set forth below, if the Town determines that:

(1) The dedicated park land is unusable or not compatible with the Parks Plan; or

(2) The dedicated park land is less than one acre or the park land dedication site is such a small area that it is inefficient to maintain; or

(3) Sufficient park area is already in the public domain in the proximity of where the proposed development is located and the recreation needs of citizens will be better served by expanding or improving existing parks accessible to the wider community; or

(4) Development projects within the extraterritorial jurisdiction of the Town are subject to the park land dedication requirements set forth within this ordinance; however, the difficulty faced by the Town or County in maintaining property outside the corporate limits of the Town may result in the application of a fee in lieu of the land dedication requirement.

(c) The cash payment in lieu of land dedication shall be met by the payment of a fee set forth from time to time by town ordinance sufficient to acquire park land. Unless and until changes by town

ordinance, the cash payment shall be computed on the basis of \$968 per dwelling unit within the proposed subdivision.

7. SEVERABILITY

(a) *Unconstitutional or Invalid Section.* Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect.

(b) *Independent Sections.* The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

8. ESTOPPEL / WAIVER

The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

9. EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage and publication as provided by law.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas, this the 10th day of December, 2015

Dr. Mark E Vargus
Mayor

ATTEST:

Linda Asbell, TRMC
Town Secretary