

CITY OF LAVON, TEXAS
ORDINANCE NO. 2024-03-08

Parkland Dedication

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 9 “PLANNING AND DEVELOPMENT REGULATIONS”, ARTICLE 9.02 “SUBDIVISION ORDINANCE”, OF THE CODE OF ORDINANCES OF THE CITY OF LAVON, BY ADDING DIVISION 3 “PARKLAND DEDICATION AND DEVELOPMENT”, TO ADOPT REGULATIONS REGARDING PARKLAND DEDICATION, FEES, AND DEVELOPMENT IN THE CITY OF LAVON; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A PENALTY CLAUSE FOR EACH OFFENSE.

WHEREAS, the City of Lavon (the “City”) is a Home Rule municipality; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 9 “Planning and Development Regulations”, Article 9.02 “Subdivision Ordinance” of its Code of Ordinances, which sets forth various regulations for subdivisions and development; and

WHEREAS, the City Council desires to amend Chapter 9 “Planning and Development Regulations”, Article 9.02 “Subdivision Ordinance” to adopt regulations for parkland dedication, development, and fees; and

WHEREAS, the regulation and promotion of parkland development and dedication is necessary and in the interests of the public health, safety, and general welfare; and

WHEREAS, open space and recreational areas in the form of trails, parks, and preserves are necessary for the health and welfare of the residents of the City, and the only adequate procedure to provide for parks is by integrating such requirements into the procedure for planning and developing property or subdivisions in the City to accommodate the associated and proportionate impact on the parks and recreation system, whether such development consists of subdivision, new construction on vacant land, or rebuilding and remodeling of structures on previously developed property; and

WHEREAS, land development increases demand upon a municipality’s parks and recreation system: and

WHEREAS, the City consulted the “Parkland Dedication: Optimizing an Underutilized Resource” resource, by the Texas A&M AgriLife Extension Service when drafting this Ordinance, widely used by Texas cities for consideration of parkland dedication and development; and

WHEREAS, the City conducted multiple community engagement activities, citizen surveys, and public hearings in coordination with the preparation and adoption of the 2022 Parks and Recreation Master Plan, the 2022 Update to the Comprehensive Plan, and the 2023 Update to the Strategic Plan; and

WHEREAS, after considering the necessity for orderly and appropriate regulations of parkland within the city, the City Council does hereby find that the amendment approved hereby accomplishes such objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. FINDINGS. After due deliberations and consideration of the recommendation of staff and information and other materials received, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety and welfare of its citizens.

SECTION 3. AMENDMENTS. Chapter 9 “Planning and Development Regulations”, Article 9.02 “Subdivision Ordinance”, is hereby amended to adopt Division 3 “Parkland Dedication and Development” to read as provided in Exhibit A, attached hereto and incorporated herein for all purposes.

SECTION 4: SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5: SEVERABILITY. 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. The City 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 phrases be declared unconstitutional or invalid.

SECTION 6: PENALTY. Any person, firm, corporation, or entity violating this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in accordance with Section 9.02.009 of the City’s Code of Ordinances. Each continuing days’ violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance 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.

SECTION 7: PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

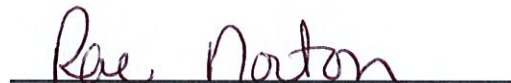
SECTION 8. OPEN MEETING. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

DULY PASSED AND APPROVED by the City Council of the City of Lavon, Collin County, Texas, on this the 19th day of March 2024.



Vicki Sanson, Mayor

ATTEST:



Rae Norton, City Secretary

ORDINANCE NO. 2024-03-08

EXHIBIT A

Exhibit A

Division 3 Parkland Dedication and Development

Section 9.02.051 Purpose

- (a) This section is adopted to provide open space and recreational areas in the form of parks as a function of subdivision and site development in the City of Lavon. This section is enacted in accordance with the home rule powers of the City granted under the Texas Constitution and the statutes of the state, including, but not by way of limitation, Tex. Local Gov't. Code, Ch. 212 as may be amended from time to time.
- (b) It is hereby declared by the City Council that open space and recreational areas in the form of trails, parks, and preserves are necessary for the health and welfare of the residents of Lavon, and that the only adequate procedure to provide for parks is by integrating such requirements into the procedure for planning and developing property or subdivisions in the City to accommodate the associated and proportionate impact on the parks and recreation system, whether such development consists of subdivision, new construction on vacant land, or rebuilding and remodeling of structures on previously developed property.
- (c) Parks provide for a variety of indoor and outdoor recreational and healthy living opportunities and are located in various locations throughout the City. The land area of the City of Lavon being less than 15 square miles shall be prima facie evidence that any park located therein is within a convenient distance from any residence located therein. The primary cost of purchasing or acquiring, developing, and improving parks shall be borne by the landowners of residential property or projects who, by reason of the proximity of their property to such parks, are the primary beneficiaries of such facilities.
- (d) Due to Lavon's small size, a typical park in the City is designed to serve the needs of residents from the entire community no matter where the park is or will be located in Lavon. Parks serve both active and passive leisure and recreation needs of residents and their visitors, in addition to serving the essential purposes of providing family-oriented open space and lake-oriented destinations as desired by the community. The purchase, acquisition, development, and improvement of the basic infrastructure and facilities for parks in Lavon are based upon the demand from the residents they are intended to serve.
- (e) Recognizing that there are different sizes, scales, and types of park facilities, the required level of service contained herein has been designed based on the smallest of park facilities at existing level of service, a neighborhood park of two to ten acres, to meet the basic infrastructure and facilities standard. Any fees collected per these requirements can, however, be utilized in the purchase or acquisition of parkland, development, and/or improvement of any size or scale park facility in the City as planned for or recommended in the Parks and Recreation Master Plan (expressly or via intent), as may be amended from time to time, which is hereby adopted by reference and incorporated herein for all purposes.
- (f) Therefore, the following requirements are adopted to affect the purposes stated above.

Section 9.02.052 Definitions

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

DEVELOPER. Landowner(s) of the subject property containing a proposed development or project.

MULTI-UNIT DWELLING. A residential structure providing complete, independent living facilities for three (3) or more families or households living independently of each other and including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit. Condominiums are included in this definition. Multi-family residential projects shall be assessed parkland fees and pay parkland fees of this section prior to the issuance of a building permit.

PARK. Includes a variety of parks, trails, open spaces, natural preserves, gathering spaces, and recreational opportunities and facilities that are open and accessible to the general public and are located within a convenient distance of the residences to be served thereby.

RESIDENTIAL USES. Includes single family and multi-unit dwellings.

SINGLE-FAMILY DWELLING. Any building or portion of a building constructed for use by or occupied exclusively by one (1) family with culinary and sanitary conveniences provided for their use. Any one proposed lot containing only one proposed dwelling unit shall be assessed parkland fees and pay parkland fees of this section prior to filing an associated plat for record.

Section 9.02.053 Requirements

This division applies to a developer who subdivides or develops land for residential uses located within the city:

(a) General

- (1) The City Manager or their designee shall administer this section with certain review, recommendation, and approval authorities being assigned to the Planning and Zoning Commission, the Parks and Recreation Board, and various City departments as specified herein. Unless provided otherwise herein, action by the City shall be by the City Council after consideration by the Parks and Recreation Board. Any proposal considered by the Planning and Zoning Commission under this section shall have been reviewed by the Parks and Recreation Board and its recommendation given to the Commission.
- (2) Generally, the developer of property with residential uses must address the following requirements pursuant to this section: dedication of land for park use or payment of a fee-in-lieu thereof and payment of a park development fee for parks or construction of the park improvements to which such fee relates. Requirements herein are based on actual or approved dwelling units for an entire development or project. Increases or decreases in final dwelling unit count may require an adjustment in fees paid or land dedicated. If the actual number of dwelling units exceeds the original estimate, additional parkland and additional park development fees may be required in accordance with the requirements in this section.

(b) Parks and Recreation Master Plan. The Parks and Recreation Master Plan, as may be amended, is the park planning basis for this section.

(c) Fee calculations and updates.

- (1) The schedule of fees and required land dedications, along with the associated methodology and level of service standard, are attached hereto as Appendices I, II, and III, and are incorporated and made a part of this section for all purposes by reference.
 - (2) A quantifiable and reasonable methodology was established to base the parkland dedication requirements, fees-in-lieu of dedication, and parkland development fees contained herein on data and levels of service relevant to Lavon that are based on density as well as best practices. The park development fee is calculated utilizing empirical details of how much the average neighborhood park costs in the City based on the community feedback gathered in the Parks and Recreation Master Plan and its associated analysis. The methodology and fees shall be reviewed annually and updated on a regular basis when warranted.
 - (3) The City Manager, or their designee, shall submit, as directed by the Parks and Recreation Board or the City Council, each as provided in Appendix I, and as calculated from the variables and formula(s) reflected in Appendices II and III, the following:
 - (A) A fee derived from a parkland dedication requirement per person.
 - (B) A fee derived from a land cost per person.
 - (C) A fee derived from a park development cost per person.
- (d) Land dedication.
- (1) The amount of land to be dedicated for parkland purposes shall be as set forth in Appendix I, as calculated from the variables and formulas reflected in Appendices II and III. The required dedication may be met by payment of fee-in-lieu of land when permitted or required by other provisions of this section. The total amount of land dedicated for a development or project shall be dedicated to the City in fee simple, except as otherwise provided herein:
 - (A) Prior to the issuance of any building permits for multi-dwelling development, on an associated plat or via separate recorded instrument, clearly labeled and dedicated as City parkland;
 - (B) Concurrently with the final plat for a single phase single-family dwelling development, clearly labeled and dedicated as City parkland;
 - (C) For a multi-phased single-family dwelling development, the entire park(s) shall be either platted concurrently with the plat of the first phase of the development, clearly labeled and dedicated as City parkland; 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 equal to the number of acres of parkland required and in a form acceptable to the City. The amount of the financial guarantee shall be the amount of fee-in-lieu of land dedication as set forth in Appendix I. The financial guarantee will be released to the developer, without interest, upon the filing of the final plat for the phase that dedicates the required parkland.
 - (2) The obligation of a developer to dedicate parkland or make payments or improvements in lieu thereof shall be in addition to and independent of the requirements of the 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 two acres and

is dedicated and accepted by the City as public parkland, the required dedication or payment may be reduced in applicable proportion.

- (e) Fee-in-lieu of land. In lieu of dedicating parkland for parks, a developer may request to meet some or all of the parkland dedication requirements through payment of a fee-in-lieu thereof in the amounts set forth in Appendix I. Such fees shall be due prior to filing an associated plat for record for single-family dwelling uses and prior to the issuance of a building permit for multi-unit dwelling uses.
- (f) City Council Approval. The City Council shall have the final authority in determining how much, if any, land or fee may be accepted in lieu of required land dedication. The Council may, from time to time, require that a fee be submitted in lieu of land dedication in amounts as set forth in Appendix I. Likewise, the Council may, from time to time, require that land be dedicated in amounts as set forth in Appendix I, and that no fee-in-lieu of land will be accepted.
- (g) Approval process for parkland dedication.
 - (1) Land dedications equaling or exceeding two acres, and dedications of floodplains and greenways.
 - (A) For any proposed required parkland dedication equaling or exceeding two acres of land (before application of the 50% adjustment provided in Section 9.02.057), or equaling or exceeding payment of a fee-in-lieu thereof or for any proposed land dedication containing floodplain or greenway, the developer must:
 - 1. Obtain a recommendation from the Parks and Recreation Board; and
 - 2. Obtain approval from the Council.
 - (B) Should a proposed dedication go before the Planning and Zoning Commission as part of a required project approval, the Planning and Zoning Commission shall consider the recommendation from the Parks and Recreation Board and both recommendations shall be forwarded to the City Council for consideration.
 - (2) Criteria for consideration.
 - (A) For any proposed required parkland dedication equaling or exceeding two acres of land (before application of the 50% adjustment provided in Section 9.02.057), or equaling or exceeding payment of a fee-in-lieu thereof or for any proposed land dedication containing floodplain or greenway, the following criteria shall be utilized for considering approval of the proposed parkland dedication:
 - 1. The proposed plat shall clearly identify the proposed public parkland to be dedicated;
 - 2. The proposed dedication or fee shall provide a sufficient amount of parkland in the area of the proposed development for required parkland dedication;
 - 3. Where the proposed dedication is insufficient for a park site under existing park design standards, some or all of the dedication requirements may be in the form of a fee in amounts as set forth in Appendix I;

4. Determination of acceptability of a proposed parkland dedication is based upon the Parks and Recreation Master Plan, as may be amended from time to time and the criteria contained herein;
5. The proposed development of the park is at a minimum consistent with the Lavon's level of service for neighborhood parks as set forth in Appendix IV, and in the Parks and Recreation Master Plan, as may be amended from time to time.
6. Land is usable and compatible with the Comprehensive Plan, the Parks and Recreation Master Plan, and other approved public plans.
7. There is a level of service need in the immediate vicinity of the proposed park area.
8. There is no nearby existing park that would be served with the funds better or more by expansion or improvement.
9. Public access considerations.

(3) Exemptions. Development and maintenance of a park less than two acres in size, or within a small group of individual homes, for public park purposes, is impractical and does not allow for appropriate improvements consistent with necessary level of service. Therefore, the following exemptions shall apply:

(A) If fewer than two acres-worth of dwelling units as specified in Appendix I, under land dedication are proposed by a plat for single-family dwelling or a building permit for multi-unit dwelling, the developer shall pay the applicable fee-in-lieu of land dedication. An exception may be considered if the dedication is voluntarily greater than two acres, will increase the size of an existing park adjacent to the proposed parkland dedication, will provide a beneficial trail connection or right-of-way, or will provide a synergistic benefit not otherwise listed, at the discretion of the City Council.

(B) If four or fewer residential lots are proposed by a plat on unplatted property, parkland dedication is not required. On property applying for replat, no more than four residential lots from the original plat can qualify for this exemption. If the plat represents a portion of a larger property boundary, that is proposed to develop in phases, the sum of the residential lots in all the proposed phases must be fewer than or equal to four to qualify for this exemption.

(h) Park development fee. In addition to the land dedication requirements for parks, developers must meet either park development, or park development fee requirements. There is a park development fee established herein sufficient to develop parks in ways that meet the City's level of service as determined in the Parks and Recreation Master Plan.

(1) The park development fee assessed to a developer, subject to this section, is as shown in Appendix I. The process for the approval and collection of park development fees shall be the same as for the parkland dedication requirements to which the development relates, and shall be processed simultaneously with the parkland dedication requirements.

(2) The City shall have the final authority in determining how much, if any, land or fee may be accepted in lieu of required park development. The City may, from time to time, require that a fee be submitted in lieu of park development in amounts as set forth in Appendix I. Likewise,

the City may, from time to time, require that parks be developed to a level of service as reflected in Appendix IV, except and that no fee-in-lieu of park development will be accepted.

- (i) Construction of park improvements in lieu of park development fee. A developer may elect to construct required park improvements in lieu of paying the associated park development fee as set forth herein. In such event:
 - (1) A park site plan, developed in cooperation with the City staff, must be reviewed and approved by the Parks and Recreation Board and City Council upon submission of final plat for single family residential uses or upon application for a building permit for multi-family residential uses, whichever is applicable;
 - (2) Detailed plans and specifications for park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to public improvements for final plats and for building permit issuance, whichever is applicable;
 - (3) All plans and specifications shall meet or exceed the City's level of service standards and/or scale-specific intent as specified in the Parks and Recreation Master Plan and in Appendix III, as may be amended from time to time, and the criteria contained herein, in effect at the time of the submission;
 - (4) Upon the proposed development of a park, lighting and restrooms may be considered based on locational criteria and other related factors;
 - (5) 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 the developer completes the work in accordance with the approved plans, specifications, ordinances, and other applicable laws;
 - (6) The construction of all improvements, including any required trails, must be completed in accordance with the requirements relating to the construction of public improvements for final plats and issuance of building permits, whichever is applicable. This includes guaranteeing performance in lieu of completing the park improvements prior to final plat approval. Notwithstanding any other applicable ordinances, park improvements should be completed within two years from the date of the approval;
 - (7) Park development will be considered complete and a certificate of completion will be issued after the following requirements are met:
 - A. Improvements have been constructed in accordance with the approved plans;
 - B. All parkland upon which the improvements have been constructed has been dedicated as required under this section; and
 - C. All warranties as specified herein have been provided for any equipment installed in the park as part of these improvements;
 - (8) Upon issuance of a certificate of completion, the developer warrants the improvements for a period of two years by providing a maintenance bond in a form acceptable to the City, covering the total costs of the improvements; and
 - (9) The developer shall be liable for any costs required to complete park development if:

- A. Developer fails to complete the improvements in accordance with the approved plans;
 - B. Developer fails to complete the improvements within the required time frame; and/or
 - C. Developer fails to complete any warranty work.
- (j) Standards for private parkland.
- (1) A developer may submit an application to satisfy up to 100% of the parkland dedication and development required for a development or project by providing a Public Access and Recreational Easement rather than deeding the land to the City in fee simple.
 - (2) In order to earn credit for private parkland, the park shall:
 - A. Provide signage visible from a right-of-way frontage to be reviewed and approved through the application and consideration process, and the sign shall state that the area, including any recreational amenities, is open and available for public use, the park hours and City contact information, and it must be posted at the park entrance or in a location visible to the public;
 - B. Provide language, approved by the City Attorney, in the Public Access and Recreational Easement document or associated plat that specifies maintenance, capital replacement, the right of the City to conduct safety inspections, future construction rights, penalties and arrangements for lack of compliance, and language that specifies that re-payment of the credits will be required via alternate land or compensation for release of the easement; and
 - C. Provide design and features consistent with the guidelines and requirements contained herein.
 - (3) The required dedication and development shall be calculated per the requirements in Appendices I, II, and III, and then the proposal shall be evaluated to determine the amount of parkland dedication and/or development credit to be given using the following factors:
 - A. The presence of active recreational amenities including, but not limited to, playscapes, seating areas, sport courts, table game recreation, climbing, shade, or exercise structures, or trails;
 - B. The ability of the public to access and use the land for recreation purposes in perpetuity;
 - C. The presence of group gathering spaces, such as open lawns, seating, picnic areas, plazas, or pavilions;
 - D. Landscaping that enhances the City and the park by providing shade, educational opportunities, trees, and/or wildlife habitat; and
 - E. The ability of the City to provide programming in the space.
 - (4) If park development fees are credited, recreational amenities and other improvements must be constructed onsite and approved by the City during site plan or subdivision review at a specific time concurrent or prior to residential uses, as stipulated in the associated development agreement. Amenities must be shown on the site plan and/or construction plan as determined by the City.

- (5) A developer must post cash escrow or an irrevocable line of credit in a form approved by the City for amenities included on private parkland during site plan or subdivision review.
- (6) If credited acreage does not satisfy the entire parkland requirement, the City will calculate the remaining fee using the same requirements in Appendix I, proportionally assessed.
- (k) Submitting fee. Any fees required to be paid pursuant to this section shall be remitted:
 - (1) Prior to the issuance of any building permits for multi-unit dwelling or development; or
 - (2) Prior to filing an associated plat for record for single-family dwelling or development.
- (l) Use of fees by the City. Fees may be used only for the purchase, acquisition, development, and/or improvement of park facilities in the City.
- (m) Reimbursement for City-acquired parkland. The City may from time to time acquire and/or develop land for parks in or near an area of actual or potential development. If the City does acquire and/or develop parkland in a particular area near a development or subdivision that should come forward for consideration, the City may require subsequent dedications to be in fee-in-lieu-of land and parkland development fees instead of dedication and development, to reimburse the City for the cost(s) of acquisition and/or development.

Section 9.02.054 Prior Dedication or Absence of Prior Dedication

- (a) Depending on the circumstances, additional proportionate dedication may be required for the increase in dwelling units from what was originally proposed and may be either land dedication or fees-in-lieu of land or development, at the discretion of the City Council. At the discretion of the City Council, any former gift of land or cash to the City may be credited toward eventual land dedication or development requirements imposed on the developer.
- (b) The City Council shall consider recommendations of the Parks and Recreation Board in exercising its discretion under this section.

Section 9.02.055 Planning Considerations

The City's approved plans, including the Comprehensive Plan and the Parks and Recreation Master Plan, are intended to provide the Parks and Recreation Board with a guide upon which to base its recommendations and for the City to take action. Because of the need to consider specific characteristics in the site selection process, the park locations and sizes indicated in the plans are general. The actual locations, sizes, and number of parks will be determined when development occurs or when sites are acquired by the City, including by donations.

Section 9.02.056 Special Fund; Right to Refund

- (a) All parkland dedication fees will be deposited in a fund specifically dedicated to the purchase and/or acquisition of parks in Lavon. All park development fees will be deposited in a fund specifically dedicated to the improvement and/or development of parks in the City.

- (b) The City shall account for all fees in lieu of land dedication and all park development fees paid under this section with reference to the individual plat(s) involved. Any fees paid for such purposes must be encumbered or expended by the City within ten years from the date received by the City for purchase, acquisition, development, and/or improvement of a park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis.
- (c) The developer of the property on the last day of the ten-year period shall be entitled to a pro rata refund that includes the original contribution, computed on a per dwelling unit basis, if the fees are not encumbered by contract or purchase order, expended, or if the property under which fees were paid has not received benefit from a park acquired or developed within the City with the fees paid. The property owner of the property must request the refund in writing, within one year of entitlement, or the right shall be deemed permanently waived. Any interest earned with these funds shall remain in these funds and be used for the fund's intent.

Section 9.02.057 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 and accepting parks and adjacent development.

- (a) 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 their designee, shall determine whether any encumbrances interfere with park use. Any requested reservations from the conveyance shall be accompanied by a complete waiver of the surface use by all owners and lessees. A current title report must be provided with the land dedication. The developer 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 Collin County Tax Assessor shall be submitted with the dedication or plat.
- (b) Land in floodplains or designated greenways is not preferred but can be considered on a 50% per acre basis, at the discretion of the City Council (for example, four acres of floodplain or greenway will be equal to two acres of potential parkland). The following factors shall be considered for potential parkland in the floodplain or in designated greenways:
 - (1) Sites should not be severely sloping or have unusual topography that would render the land unusable for recreational activities or for improvements. At least 50% of a parkland site shall be less than 10% grade, well drained, and suitable for active play, unless the intent of the dedication is to provide a beneficial connection or to preserve an environmental, natural, or cultural resource/asset;
 - (2) Placement of recreational or parkland support amenities, including paths or access for maintenance purposes, can be placed in the area in compliance with applicable watershed requirements;
 - (3) It is preferred that the floodplain area provide suitable passive recreation, scenic views, wildlife habitat protection, water quality protection, tree protection, and/or trail connectivity to the more intensive uses in non-floodplain areas;

- (4) Park sites shall have access to water and sewer lines prior to or upon dedication. Site plans and subdivision applications must demonstrate sufficient water and wastewater capacity to serve the park;
- (5) Park sites should be located adjacent to greenways and/or schools, where available, in order to encourage shared facilities and joint development of new sites;
- (6) Park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them;
- (7) Where appropriate, sites with existing trees or other scenic elements or natural assets are preferred;
- (8) Detention/retention areas shall not be utilized to meet dedication requirements unless they are designed in an innovative manner so as to provide for suitable recreational purposes, but they may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet the standards as specified in all codes and regulations.
- (9) Where park sites are adjacent to greenways, schools, or existing or proposed subdivisions, access ways may be required to facilitate public access to provide public access to parks;
- (10) It is preferred that a minimum 50% of the perimeter of a park should abut a public street. Parks shall have at least a portion of the property adjacent to a public street or shall have associated public access easements and improvements to allow for ready access. Public view of the park from a public street is desirable to facilitate community connections and provide for crime prevention through environmental design;
- (11) Community-scale parks should be accessible from major arterial streets so as to be accessible by large numbers of people;
- (12) Areas for potential parkland that are encumbered by overhead utility lines or easements of any type which would limit the opportunity for recreational and park development are not preferred;
- (13) All rubbish, trash, junk, and other offensive materials shall be removed from all dedicated lands and the property returned to its natural condition except as to approved construction and improvement thereon; and
- (14) For dedications of more than two acres of land (before application of the 50% adjustment provided in Section 9.02.057), and upon the request of the City Manager, or their designee, a developer-funded environmental or engineering study, audit, or assessment may be required in some cases demonstrating that the property is in a condition that would allow the City to utilize the property for public park purposes without expenditures to remove or mitigate environmental or hazardous materials or conditions; suitable and safe for use as a public park; and free from environmental or engineering-related problems.

Section 9.02.058 **Warranty Required**

- (a) All materials and equipment provided to the City shall be new unless otherwise approved in advance by the City Manager, or their designee, and all work will be of good quality, free from faults and defects, and in conformance with the designs, plans, specifications, 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.
- (b) All work by the developer not conforming to these requirements, including, but not limited to, unapproved substitutions, may be considered defective.
- (c) This warranty is in addition to any rights or warranties expressed or implied by law.
- (d) Where more than a two-year warranty is specified in the applicable plans, specifications, or submittals for individual products, work, or materials, the longer warranty shall govern.
- (e) This warranty obligation may be covered by any maintenance bond tendered in compliance with this section.
- (f) If any of the work performed by the developer is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this section, the designs, plans, drawings, or specifications, within two years after the date of the issuance of a certificate of final completion of the work, or a designated portion thereof, whichever is longer, within two years 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 section, developer shall promptly correct the defective work at no cost to the City.
- (g) The failure, including cracking or other indication of failure, of an improvement shall be deemed conclusive that the workmanship or product is defective.
- (h) 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. 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.
- (i) If within 20 calendar days after the City has notified the developer of a defect, failure, or abnormality in the work, the developer has not started to make, and continuously worked to complete, 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 the developer.
- (j) 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 the developer, its contractors, subcontractors, or by the surety.
- (k) 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 two years after the installation or completion. The two-year warranty shall cover all work, equipment, and materials that are part of the improvements made under this section.

Appendix I

Parkland Dedication and Park Development Fees:

1. Land Dedication.
One (1) acre per 43.8 Dwelling Units
2. Fee-In-Lieu of Land Dedication.
\$9,408.26 per Dwelling Unit
3. Park Development Fee.
\$1,092.42 per Dwelling Unit
4. Total Park Fees.
\$10,500.68 per Dwelling Unit

Appendix II

Parkland Dedication and Park Development Methodology:

Variable	Calculation Factor	Description
Parkland Dedication Inputs		
Existing City Population	7,198	2023 City population estimate (NCTCOG)
Existing City Park Acres	52 ¹	Acres of dedicated, City-owned parkland
Parkland Level of Service	138 people per 1 acre	Existing City population / existing City park acres
City Persons per Household	3.15	2023 City population estimate (NCTCOG)
Fee-in-Lieu of Land Inputs		
Existing City Population	7,198	2023 City population estimate (NCTCOG)
Existing City Park Acres	52 ¹	Acres of dedicated, City-owned parkland
Parkland Level of Service	138 people per 1 acre	Existing City population / existing City Park acres
Existing City Market Value – Collin County	\$1,139,571,957	2023 Lavon Certified Market Value per Collin County Central Appraisal District
Existing City Acres	2,764.8	City of Lavon land area, excluding ETJ (City of Lavon GIS)
Parkland Cost Factor	\$412,171.57 per 1 acre	Certified City market value / existing city acres
City Persons per Household	3.15	2023 City population estimate (NCTCOG)
Park Development Fee Inputs		
Existing City Population	7,198	2023 City population estimate (NCTCOG)
Number of Developed City Parks	3 ¹	Count of all City-owned, developed parks
Facilities Level of Service	2,399 people per developed City park	Population/ number of developed City parks
Park Development Cost Factor	\$831,984.24	Cost estimate of developing one Neighborhood Park to desired level of service
City Persons per Household	3.15	2023 City population estimate (NCTCOG)

Methodology and fees continued on next page.

¹ City Park, Bear Creek West Park, Bear Creek East Park

Appendix III

A. Parkland Dedication Formula:

Parkland Level of Service/ City Persons per Household = Parkland Dedication Requirement per Person

138 / 3.15 = one acre per 43.8 dwelling units

B. Fee In-lieu of Land Formula:

STEP 1. Parkland Cost Factor/ Parkland Level of Service = Land Cost per Person

\$412,171.57 per acre / 138 people per acre = \$2,986.75 per person

STEP 2. City Persons per Household X Land Cost per Person = Fee In-Lieu of Land

3.15 PPH X \$2,986.75 per person = \$9,408.26 per unit

C. Park Development Fee Formula:

STEP 1: Parkland Development Cost Factor/ Facilities Level of Service = Park Development Cost Per Person

\$831,984.24 neighborhood park cost / 2,399 people per developed park = \$346.80 per person

STEP 2: City Persons per Household X Park Development Cost Per Person = Parkland Development Fee by Density

3.15 PPH X \$346.80 per person = \$1,092.42 per unit

D. Total Parkland Fee per Unit:

Fee In-Lieu of Land by Density + Parkland Development Fee by Density = Total Parkland Fee per Unit

\$9,408.26 + \$1,092.42 = \$10,500.68 per unit

Appendix IV

Parkland Development: Neighborhood Park Level of Service Estimate:

Items Present	Quantity	Size	Price	Total
Sod	62,740	SF	\$ 0.75	\$ 47,055.00
Concrete Parking Lot and Slab	11,328	SF	\$ 12.00	\$ 135,936.00
Loose Gravel	15,000	SF	\$ 2.50	\$ 37,500.00
Mulch	850	SF	\$ 2.25	\$ 1,912.50
Concrete Walking/Biking Path	6,355	SF	\$ 7.50	\$ 47,662.50
Playscape	1	Each	\$ 50,000.00	\$ 50,000.00
8-Foot Straight Balance Beam	1	Each	\$ 750.00	\$ 750.00
2-Swing Youth Swing Set	1	Each	\$ 1,750.00	\$ 1,750.00
2-Swing Infant Swing Set	1	Each	\$ 2,250.00	\$ 2,250.00
12-Foot Entrance Height Square Fabric Shade	1	Each	\$ 6,000.00	\$ 6,000.00
Double-Sided Safety and Welcome Sign	1	Each	\$ 1,000.00	\$ 1,000.00
Handicap Accessible Ramp	1	Each	\$ 3,800.00	\$ 3,800.00
Playscape Surfacing - Engineered Wood Fiber Mulch - 12" Depth	3,900	SF	\$ 3.00	\$ 11,700.00
Playscape Plastic Border Timber	245	LF	\$ 10.00	\$ 2,450.00
Dog Waste Receptical	1	Each	\$ 550.00	\$ 550.00
Metal Pavilion Shade Structure	1	Each	\$ 75,000.00	\$ 75,000.00
Picnic Table (8' Length)	6	Each	\$ 2,500.00	\$ 15,000.00
Grill	2	Each	\$ 600.00	\$ 1,200.00
Ornamental Fence (5' Height)	480	LF	\$ 50.00	\$ 24,000.00
Handicap Parking Signs	3	Each	\$ 150.00	\$ 450.00
Park Entrance Monument Sign	1	Each	\$ 15,000.00	\$ 15,000.00
Drain Lines Under Playscape	100	LF	\$ 20.00	\$ 2,000.00
Design Fees	1	Each	\$ 61,175.31	\$ 61,175.31
Items Assumed	Quantity	Size	Price	Total
2-Room Restroom Facility	1	Each	\$ 75,000.00	\$ 75,000.00
Items Considered	Quantity	Size	Price	Total
Dual Height Water Fountain	1	Each	\$ 7,500.00	\$ 7,500.00
Water Meter	1	Each	\$ 3,000.00	\$ 3,000.00
Electric Meter	1	Each	\$ 2,000.00	\$ 2,000.00
Single Hump Bike Rack for 3 Bikes	2	Each	\$ 1,200.00	\$ 2,400.00
Area Lights (12' Height)	10	Each	\$ 4,000.00	\$ 40,000.00
Irrigation	63,590	SF	\$ 1.20	\$ 76,308.00
Handicap Accessible Swing	2	Each	\$ 3,000.00	\$ 6,000.00
Subtotal				\$ 756,349.31
10% Contingency				\$ 75,634.93
Total				\$ 831,984.24