

**CITY OF FATE, TEXAS
UNIFIED DEVELOPMENT ORDINANCE**

Article X – Park Dedication and Development

10.1 Definitions, Purpose & Assumptions

10.1.1 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Community Park* means a park or recreation facility designed and intended to serve all residents of the City of Fate.
- (2) *Develop (v)* means the act of subdividing a parcel or tract of land and installation of community facilities in accordance with and as defined by this Ordinance, or the redevelopment of an existing residential tract.
- (3) *Development (n)* means a parcel or tract of land proposed for subdivision, building permit or redevelopment in accordance with and as defined by this Ordinance.
- (4) *Neighborhood Park* means a park or recreation facility designed and intended to serve the residents in the Park District in which the Neighborhood Park is located.
- (5) *Park and Recreation Improvements Plan* means the master plan adopted with the Ordinance and updated annually that includes a Parks and Trails Master Plan and an approved Project List.
- (6) *Park development* means the development of a park site by construction of streets, drainage, utilities, and recreational improvements to serve a Park District.
- (7) *Park District* shall mean the park service areas identified in Section 10.1.3.
- (8) *Pro rata share of required dedication* means the amount of land that shall be dedicated (or the acreage figure used to calculate cash in lieu of land donation) as prescribed within this Article. The pro rata share of required dedication in a Park District shall be calculated as follows: total neighborhood park acreage required to provide adequate level of service to each neighborhood Park District divided by the ultimate residential dwelling unit holding capacity for Park District in which the unit is located equals the pro rata share of required acreage dedication per new dwelling unit.

Total Neighborhood Park Acreage for the Park District in which the Development is Located <hr style="border: 0; border-top: 1px solid black;"/> Ultimate Number of Residential Dwelling Units In the Park District in which the Development Is Located	=	Number of Acres of Park Land to be Dedicated per Dwelling Unit
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- (9) *Recreational Improvements Facilities* mean the features set forth for a park, which will include at least one of the following activities or facilities: playground apparatuses, picnic areas, pavilion, play courts, play fields, parking area, and restrooms. Community trails, shared use paths, open space and preservation areas identified on the City’s approved Park and Recreation Improvements Plan are

also considered to be Recreational Improvements Facilities. A uniform cost shall be prepared annually for these features and adopted by resolution by the City Council. The dedication factor shall be applied to this cost to determine the pro rata share per new dwelling unit for recreational improvements facilities.

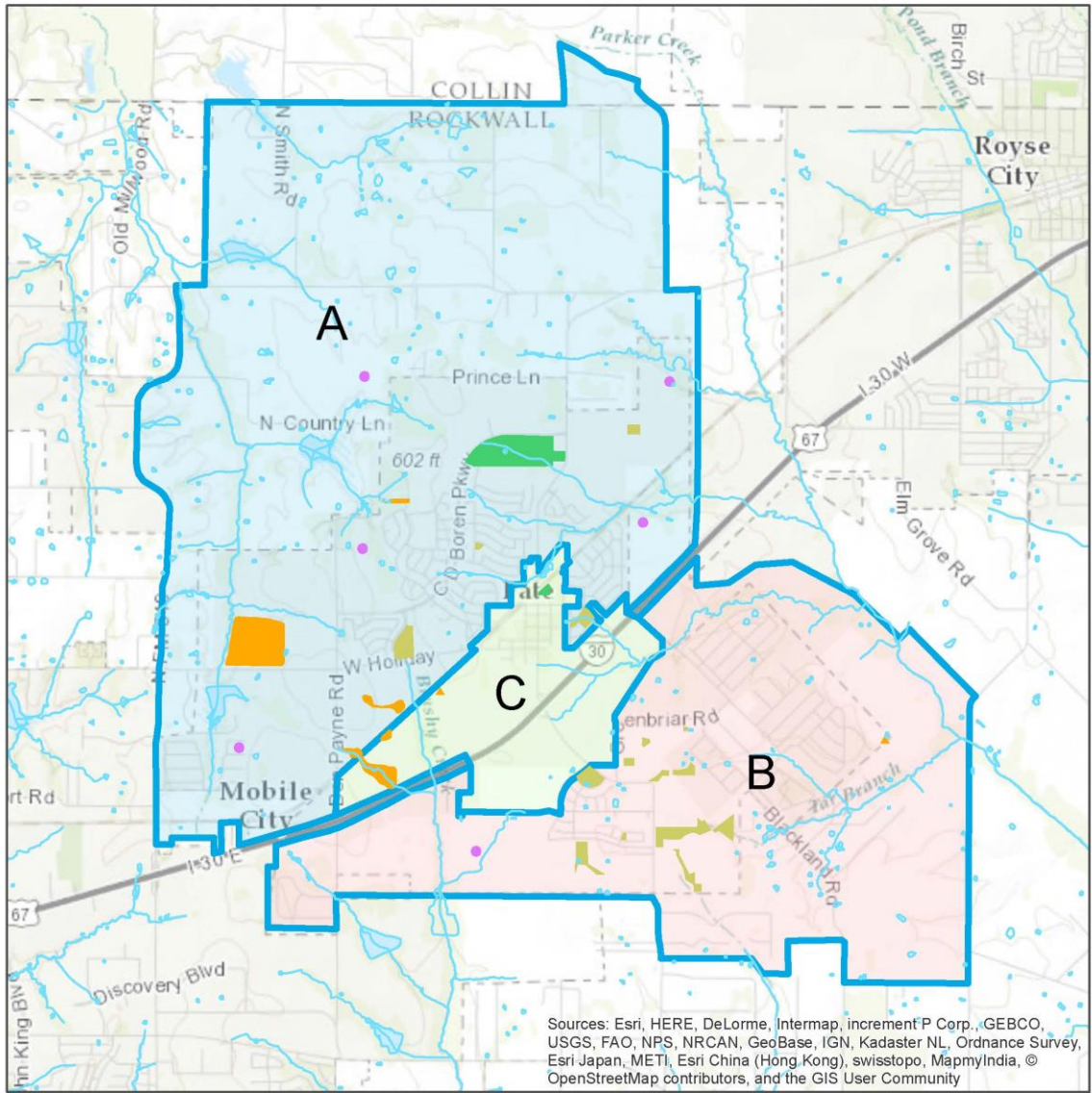
10.1.2 Purpose

- (1) This Article is adopted to provide recreational areas in the form of Community Parks, Neighborhood Parks, trails, open space, preservation areas, and other recreational amenities as a function of residential development in the City. This Article is enacted in accordance with the home rule powers of the City, granted under the state constitution, in statutes of the state including, but not limited to, V.T.C.A., Local Government Code § 212.001 et seq. It is hereby declared by the City Council that recreation areas in the form of parks, trail systems, open space, and preservation areas are necessary and in the best interest of the public's welfare, and that the only adequate procedure to provide for same 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 structures on existing residential property.
- (2) Facilities included in this program include parks, trails, open space, preservation and other recreational facilities that provide for a variety of outdoor recreational opportunities, fulfill level of service targets adopted by the City, and are within convenient distances for a majority of the residents to be served thereby.

10.1.3 Park Districts

- (1) Park Districts (or service areas) are established in *Figure 10-1* of this Article and shall be prima facie proof that any facility, including a Neighborhood Park, located therein is within such convenient distance from any residence located therein. See Table 10-1 for the number of existing and future residential dwelling units within each Park District.
- (2) The number and boundaries of the Park Districts may be amended, added or deleted from time to time, pursuant to the procedures of this Article and ordinance.

FIGURE 10-1, PARK DISTRICTS



Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

Figure 10-1. Park Districts

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Type	Park Districts
■ Existing Park	 District A
■ Future Community Park	 District B
■ Future Neighborhood Park	 District C
■ HOA Park	



10.1.4 Community Parks

- (1) Community Parks will be identified in the City's approved Master Plan and Parks and Recreation Improvements Plan, and are deemed by the City Council to be necessary elements in the City's provision of park and recreation facilities for the citizens of Fate.
- (2) Community Park development shall be funded, in part by the City to account for existing residents who will use the Community Park, and in part by new development or the redevelopment of existing residential property to account for new residents who will use the Community Park.
- (3) The land for Community Parks will be acquired by the City or by agreement between the City and a land owner but is not intended to be accomplished through the dedication requirement contained herein, which shall be for Neighborhood Parks.

10.1.5 Parks and Recreation Improvements Plan

- (1) With this Ordinance, the City is adopting a Parks and Recreation Improvements Plan, which includes a Parks and Trails Master Plan and an approved Project List.
- (2) The Master Plan Map and/or the Project List may be reviewed and updated periodically in accordance with *Section 10.6* of this Article and Article II of this Ordinance. The most current versions of these documents shall be considered part of this Ordinance, and shall be used when determining applicable fees and land requirements.

10.2 Park Development Fee

10.2.1 General

- (1) For any new development or redevelopment of property within the City of Fate, the developer shall be charged a park development fee on a per dwelling unit basis. This fee shall be used to assist with development and construction, provide equipment, and performance of ongoing maintenance for park facilities within the City. The Park Development Fee shall include two fee components: (i) one intended to provide for Neighborhood Park development and (ii) one intended to provide for Community Park development.
- (2) With this Ordinance, the City Council is adopting a Park Development Fee. The fee amount has been established for each of the Park Districts and for Community Parks using the approved Project List and associated costs and the number of dwelling units at buildout. The most current fee structure shall be considered part of this Ordinance, and shall be used when determining applicable fees for development.
- (3) Projected number of residential dwelling units is based on the current land uses and most recent version of future land use assumptions at the date of adoption of this Ordinance and is set forth in Table 10-1 below.
- (4) The park development fee required herein shall be paid prior to the recording of the Final Plat or Replat in the official public records of Rockwall County, Texas. For previously platted but undeveloped lots, the park development fee required herein shall be paid prior to the issuance of a building permit or similar permit for development of the lot.

TABLE 10-1, PARK DISTRICT RESIDENTIAL DWELLING UNIT COUNTS

Park District	Dwelling Units at Buildout
A	7613
B	4504
C	8833
Total	20,950

10.2.2 Park Development Fee Credit

- (1) A developer shall be given park development fee credit for the construction and dedication of park improvements located on property owned by the City of Fate and shown on the approved Park and Recreation Improvements Plan.
- (2) The amount of the credit shall be for the reasonable, actual cost based on bills-paid documentation submitted to the City and approved by the City Engineer.
- (3) The credit shall be given for the park development fee to be paid for the development in which the improvements are located. For a phased development, the park development fee shall be calculated for the entire development and unused credits may be carried forward to future phases of the development. In no event may the credit for a development exceed the fee to be collected from the development.

10.3 Park Land Dedication and Fee-in-Lieu of**10.3.1 General**

- (1) Whenever a final plat is filed of record with the county clerk for development of a residential area in accordance with the provisions of the Unified Development Ordinance, such plat shall contain a clear, fee simple dedication of an area of land to the city for Neighborhood Park and recreation purposes. Such area shall be equal to or greater than the subdivision's pro rata share of acreage required for the Park District in which the property being platted or subdivided is located. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this Article. The requirement for dedication under this Article may be met by a payment of money in lieu of land when permitted or required by the other provisions of this Article.
- (2) The City Council declares the development of an area smaller than one acre for public park purposes to be impractical. Therefore, if less than one acre is calculated to be the pro rata share of a plat filed for approval, the developer shall be required to pay the applicable cash in lieu of land amount provided for by this Section, rather than dedicate any land area. No plat showing a dedication of less than one acre shall be approved.
- (3) In instances where an area less than six acres but more than one acre is calculated to be the pro rata share of a development, the City Council shall have the option of requiring land dedication or cash in lieu of land in accordance with this Section after consideration of the recommendation of the Planning and Zoning Commission and the Parks and Recreation Board. If the City Council determines that sufficient park area is already in the public domain in the area of the proposed development, or if the recreation potential for that district would be better served by expanding or improving an existing park, dedication may also be refused and cash in lieu of land may, likewise, be required.
- (4) The dedication required by this Article shall be made by filing of the final plat or contemporaneously by separate instrument. If the actual number of completed dwelling units exceeds the figures upon

which the original dedication is based, additional dedication shall be required and shall be made by payment in lieu of land amount described by this Section, or by the conveyance of an entire platted lot to the City.

- (5) The provisions of this Section 10.3.1 also apply to the redevelopment of existing residential property.

10.3.2 Prior Dedication or Absence of Prior Dedication

At the discretion of the City Council, any former gift of land to the City may be credited on a per acre basis toward the eventual land dedication requirements imposed on the donor of such land. The City Council shall consider recommendations of the Planning and Zoning Commission and the Parks and Recreation Board in exercising its discretion under this section.

10.3.3 Money In Lieu of Land

- (1) Subject to the approval of the City Council, exercised in its sole, legislative discretion, and the terms of this Section, a landowner responsible for dedication under this Article may elect to meet the requirements of Section 10.3 in whole or in part by a cash payment in lieu of land, in an amount set forth in subsection (3) of this section (10.2.3). Such payment in lieu of land shall be made at or prior to final plat approval.
- (2) The City may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a Park District and said land purchased is used to meet the need for a facility or improvement included in the approved Project List, subsequent land dedications for that facility's Park District shall be in cash only and calculated on a pro rata share basis to reimburse the city's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of:
 - (a) The average price per acre of such land; and
 - (b) The actual cost of adjacent streets and site utilities, or an estimate of such actual costs provided by the Administrator and the recreation improvement costs for facilities.
- (3) To the extent that subsection (2) of this section (10.3.3) is not applicable, the dedication requirements shall be met by a cash payment in lieu of land on the basis of a per acre price. Said per acre price shall be determined annually by the City Council and shall be based on current land values within the City. Once established the Council shall adopt the value by resolution for appreciation as required in this subsection. Cash payments may be used only for acquisition or improvement of facilities included on the approved Project List for the same Park District as the development.

10.3.4 Dedication of More Than the Pro Rata Share of Park Land

- (1) The developer of property which is subject to the terms of this Article may dedicate more land than the pro rata share calculated for the development if approved by the City Council. If the developer dedicates an amount equal to or greater than the total required park land area for the Park District in which the property is located, the City and the developer shall execute a pro rata refunding agreement in accordance with the subdivision regulations which shall recover the cost of land dedicated in excess of the developer's pro rata share after streets, drainage, and utilities are constructed on the dedicated property.
- (2) The developer shall install the streets, drainage, and utilities to serve the facility, and the cost of same shall be included in the pro rata refunding agreement. The pro rata refunding agreement shall provide that future developers in the same Park District shall pay their pro rata share of the actual cost of park or trail development which shall be calculated based on the per acre cash in lieu of land cost in effect at the time of dedication, plus the costs of streets, drainage, utilities, and recreational

facilities installed to serve the dedicated facility. The cost of streets, drainage and utilities installed to serve the facility shall be certified by the Administrator. In no case shall the developer receive pro rata payments after he has recovered an amount equal to the number of acres actually dedicated in excess of his pro rata share multiplied by the per acre cash in lieu of land figure in effect at the time of actual dedication, plus the costs of streets, drainage, and utilities as certified by the Administrator as necessary to serve the facility. In no case shall the term of any pro rata agreement provided by this Article be for a period in excess of five years from the date of dedication.

10.3.5 Variances

In cases of undue nonfinancial hardship, the developer may request a variance from the dedication requirements of this Article in accordance with the process set forth in Section 2.5.8.

10.4 Special Fund Established; Refunds

- (1) There is hereby established a special fund for the deposit of all cash funds for park development and in fees-lieu-of-land covered under this Article. Such fund shall be known as the "Park Land Dedication and Development Fund."
- (2) The City shall account for all sums paid in lieu of land dedication under this Article referenced to individual property involved. Any funds paid for such purposes must be expended by the City within ten years from the date received by the City for acquisition and development of a Recreational Improvements Facility as defined in this Article. Such funds shall be considered to be spent on a first-in/first-out basis. If not so expended, the owners of the property on the last day of such period shall be entitled to a pro rata refund of such funds, calculated on a square footage basis. The owners of such property must request such refund within one year of entitlement, in writing, or such rights shall be barred.

10.5 Additional Requirements and Provisions

- (1) Any land dedicated to the City under this Article shall be suitable for park and recreation use. The following characteristics of a proposed area are generally unsuitable:
 - (a) Any area located in the 100-year floodplain;
 - (b) Any area of unusual topography (or slope in excess of 10%) which renders land unusable for organized recreational activities.
 - (c) Any area of width less than thirty feet for parks, or less than 15 feet for trails.

The characteristics of the park land dedication area provided in this subsection may be grounds for refusal of a plat or development permit.
- (2) Each park must have two vehicular access points from a public street. If site conditions allow for only one vehicular access point, the access point must meet fire accessibility requirements. Off-street parking for open space or preservation areas may be waived by the City.
- (3) Each park must have pedestrian access points in the form of sidewalks and/or shared use paths from each residential subdivision served by the park.
- (4) Unless provided otherwise in this Article, action by the City shall be by the City Council after consideration of the recommendations of the Planning and Zoning Commission and the Parks and Recreation Board. Any proposal considered by the Planning and Zoning Commission under this Article shall have been reviewed by the Parks and Recreation Board and its recommendation given to the Commission. The Commission may make a decision contrary to such recommendation only by a vote of at least four members. Should the Commission be unable to get this vote, the matter shall then be referred to the City Council for final decision.

- (5) If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.
- (6) If a property owner disagrees with the application of the provisions of this Article, the owner may appeal such application to the City Council. Such application must set forth the grounds for appeal and must show that the application of the terms of this Article have a disparate impact on the proposed development.

10.6 Review and Updating Park and Recreation Improvements Plan

The Administrator, along with the Parks and Recreation Board shall consider the need to update the Park and Recreation Improvements Plan, including the Parks and Trails Master Plan and the approved Project List, a minimum of once per year to ensure that the plan remains current and provides an equitable, effective framework from which to pursue the acquisition and development of park and recreation services for each Park District. Recommendations for revisions, if deemed necessary, shall be forwarded to the City Council for consideration and adoption via resolution.

10.7 Waiver of Mandatory Park Land Dedication in the Case of Private Developments

- (1) If a development is proposed to be a private development where no public streets are dedicated for use by the public, the City shall:
 - (a) Calculate the pro rata share of the proposed private development as if it were to be a development where public streets were to be dedicated.
 - (b) Waive the requirement for mandatory dedication if the private amenities of the proposed development meet or exceed the calculated pro rata share as calculated under this section.
- (2) If mandatory dedication requirements are waived and the private development does not encompass the entire Park District, the park property within the private development must be easily accessible and open to the general public either through the use of the city trail system or public roadways. If the required acres of park land is not continuous, each separate section of park property must be accessible and open to the general public and connected by way of a minimum eight-foot-wide trail.
- (3) If the park property located within a private development is not accessible to the general public, the park acreage will not be considered as part of the pro rata share and mandatory dedication requirements will not be waived unless the private development encompasses the entire Park District in which it is located.