Section 32 - Park and School Requirements

(orig. 7-24-78; am. 9-14-99;am. 7-12-05; am.4-20-10; am. xx-xx-xx)

A. Intent and Purpose

The purpose of this section is to set forth the park and school requirements for residential developments. This section establishes the method for calculating park and school fees, which is the typical way of satisfying the requirements. It also provides the method and restrictions associated with land dedication that may occur to offset the required fees. Finally, this section puts in place a procedure by which the collected fees will be distributed to the appropriate park and recreation district, Open Space, or the school district. (reloc. 7-12-05; am. 4-20-10; am. xx-xx-xx)

B. Fees

Park and school requirements shall be satisfied by the payment of fees. The park and school fees shall be calculated using the formula provided below, and in accordance with the applicable "unit fee" indicated on the fee schedule of the County Policies and Procedures. The "unit fee" is a combined fee for a residential unit, with 60% of the fee being applicable to the park requirement and 40% of the fee being applicable to the school requirement. (orig. xx-xx-xx)

total fee = number of units x unit fee. (orig. xx-xx-xx)

1. Provisions applicable to the fee calculation are:

   a. An applicant may propose to have the "total fee" for a particular development reduced through the dedication of land area for park and/or school sites. Land areas proposed for dedication must be in accordance with criteria of this section. (orig. xx-xx-xx)

   b. The number of units may be reduced by the number of properly permitted dwelling units that are currently in existence within the development. (orig. 4-20-10; am. xx-xx-xx)

   c. The requirements will not apply if a previous proposal dedicated land or paid fees-in-lieu of dedication, unless the new proposal is increasing the number of units. (orig. 4-20-10; am. xx-xx-xx)

   d. The requirements for schools shall not apply when the residential uses are for nursing homes, retirement facilities, or similar uses. (reloc. 7-12-05, am. 4-20-10; am. xx-xx-xx)

2. Calculation of Land Value:

   In order to translate the "total fee" for a development into a dollar per acre figure, it is necessary to establish a way of calculating the dedication requirement in terms of land area. The land area requirements and associated per acre valuation shall be determined based on the following: (reloc. 7-12-05, am. 4-20-10; am. xx-xx-xx)

   a. Population standards (reloc. 7-12-05; am. 4-20-10; am. xx-xx-xx)

Type of Dwelling Unit	Population per dwelling unit
Single-family detached	3.00
Single-family attached	2.50
Multi-family	2.00

   b. Land area standard (reloc. 7-12-05; am. 4-20-10; am. xx-xx-xx)

   There shall be 16 acres of combined park and school land to serve every 1000 people. The breakout of the 16 acres will be 9.6 acres for parks and 6.4 acres for schools.

   c. Land dedication formula (am. 4-20-10; am.xx-xx-xx)

$$\text{land dedication requirement} = \frac{\text{number of units} \times \text{population per unit}}{\text{1000 people}} \times \text{16 acres}$$

   d. Per-acre valuation (orig. xx-xx-xx)

$$\text{per acre valuation} = \text{total fee}$$

_____ land dedication requirement

C. Land Dedication

1. Parks: The intention of this regulation is to allow the dedication of park land in order to offset fee requirements. Park land dedication credit may be granted in accordance with the procedure below for public parks, and for private parks that exceed the minimum Common Usable Area and the Communal Amenity requirements of the Landscaping section of the Zoning Resolution. (orig. xx-xx-xx)

   a. The types of land areas that may be considered for fulfilling the park land dedication requirements are listed below. (orig. xx-xx-xx)

      (1) Park areas that include play fields, picnic areas, play structures, or other similar recreational facilities. (orig. 7-12-05; am. xx-xx-xx)

      (2) Pedestrian transportation corridors such as walkways, bikeways and trails. (orig. 7-12-05; am. xx-xx-xx)

      (3) Open areas that may include public or private trail systems. These open areas may be determined to have preservation value in relation to wildlife, view corridors or other natural landscape features. The credit for the use of these areas shall not exceed 50 % of the developer's park land dedication requirement. (orig. xx-xx-xx)

      (4) Lakes, ponds, reservoirs, wetlands, swamps and boggy lands, if such bodies of water are contiguous to other acceptable park land. The credit for the use of these areas shall not exceed 50% of the developer's park land dedication requirement. (reloc. 7-12-05; am. xx-xx-xx)

      (5) Cumulative, combinedpark land credit for open areas and water bodies as specified above shall not exceed 50% of the developer's park land dedication requirement._____

      (5) Recreation facilities that require mechanical equipment such as, but not limited to, swimming pools, batting cages and ice skating rinks. (orig. 7-12-05)

   b. When an applicant is proposing to offset the park fee through the dedication of park land, the following procedure will occur: (orig. xx-xx-xx)

      (1) Planning and Zoning staff will evaluate the applicant's proposal related to qualifying park land and will present a recommendation to the Director of Planning and Zoning for decision. (orig. xx-xx-xx)

      (2) The Director of Planning and Zoning will approve or deny the park land dedication request based on the information provided in the applicants request, the recommendation from the appropriate Park and Recreation District or Open Space (as applicable), and the staff recommendation. (orig. xx-xx-xx)

      (3) The decision by the Director of Planning and Zoning may be appealed to the Board of County Commissioners by either the applicant, the Park and Recreation District or Open Space. The appeal must be in writing and must be submitted within 14 days of the decision by the Director of Planning and Zoning. The appeal to the Board of County Commissioners may be a part of the hearing for the overall development proposal, if applicable, or it may be a separate hearing to discuss this specific issue which shall occur prior to or concurrent with the final decision on the development application . (orig. xx-xx-xx)

      (4) The decision by the Director of Planning and Zoning or by the Board of County Commissioners, in the case of an appeal, will be considered the "qualifying park land" for the proposed development and will be used in the unit fee reduction identified within this section. (orig. xx-xx-xx)

2. Schools: The school district may choose to accept the dedication of land for public school sites, which will offset the the fee requirements. (orig. xx-xx-xx)

3. The following provisions apply to the dedication of land areas as applicable. (orig. xx-xx-xx)

   a. Land areas that support multi-use functions for both park and school uses are encouraged.

These types of land areas shall be approved by the appropriate park and recreation district and/or Open Space and the school district. A master agreement to share and manage such combined sites shall be required. Land areas that qualify under this provision shall receive a dedication credit for both the park and the school portions of the fee calculation. (orig. 4-20-10; am. xx-xx-xx)

b. All park and school sites shall have sufficient buildable areas to contain the planned structures. All buildable areas shall be excluded from easements, unless otherwise approved by Planning and Zoning and/or the applicable easement authority, and shall not encroach into hazardous areas unless the hazards are abated. Buildable areas shall include provisions for ingress and egress as determined appropriate by Planning and Zoning. (orig. 4-20-10; am. xx-xx-xx)

c. Easements for utilities are permitted within park and school sites so long as the easement placement and utility installation does not interfere with the park and/or school function. If the proposed park and/or school sites are to be conveyed to the park and recreation district, Open Space or the school district, then the placement of easements and utilities within those sites shall be approved by those applicable entities. (orig. xx-xx-xx)

d. The dedication of park sites to offset the fee requirements shall be considered separate from other development requirements identified in the Landscaping Section of the Zoning Resolution. (orig. xx-xx-xx)

e. The appropriate park and recreation district shall approve any sites that are to be dedicated to the district as public park sites. In addition, the park and recreation district may provide an opinion related to a park dedication proposal that will not result in the site being dedicated to the district. (orig. 4-20-10; am. xx-xx-xx)

f. Open Space shall approve any sites that are to be dedicated to Open Space as public park sites. In addition, the Open Space may provide an opinion related to a park dedication proposal for land that is not being dedicated to Open Space. (orig. 4-20-10; am. xx-xx-xx)

g. The school district shall approve any sites that are to be dedicated as public school sites. (orig. 4-20-10)

h. A park dedication may include a tract that represents a larger acreage than the qualifying park land acreage; however, the developer will only get dedication credit for those areas within the tract that are deemed to be qualified park land, in accordance with these regulations. (orig. 4-20-10, am. xx-xx-xx)

i. Any park or school land dedication that exceeds the minimum required may be banked for use in satisfying the land dedication needs for a future development. Banked credits may only be used to satisfy the dedication requirements of a development that is considered to be a part of the overall original development. The determination of whether a subsequent development is considered a part of overall original development shall be made by Planning and Zoning. This requirement shall not serve to supersede or eliminate any dedication credits that may have been accumulated under previous versions of this Regulation, and such accumulated credits shall be allowed to be used in accordance with the regulation that was in effect at the time of the original dedication. (orig. 4-20-10; am. xx-xx-xx)

j. Public sites that receive park dedication credit shall include provisions that allow for public use. (orig. xx-xx-xx)

D. Unit Fee Reduction

A reduction in the park and school fees required for a development may be achieved through the dedication of park and/or school sites that qualify under the provisions above. If a proposed land area meets the dedication criteria, then the applicable “unit fee” indicated on the fee schedule of the County Policies and Procedures will be reduced in accordance with the following: (orig. xx-xx-xx)

1. unit fee = base unit fee - fee reduction (orig. xx-xx-xx)

2. Fee reduction Formula (orig. xx-xx-xx)

$$\text{fee reduction} = \frac{\text{dedication credit (acres) x per acre valuation}}{\text{total number of units}}$$

3. The type of land dedication credit received by an applicant will cause the percentage distribution of the fee between parks and schools to be revised as applicable. (orig. xx-xx-xx)

E. Procedures

1. Conveyance

   a. All park and school areas shall be conveyed in accordance with the following: (reloc. 7-12-05; am. 4-20-10)

      (1) Dedication Certificate: A development proposal that qualifies to use a dedication certificate on the development mylar shall convey the park and/or school land to the County, in fee simple, by dedication certificate. (reloc. 7-12-05; am. 4-20-10)

      (2) Dedication by Deed: The park and/or school land shall be deeded to the County, in fee simple, by a warranty deed approved as to form by the County Attorney's Office. (reloc. 7-12-05; am. 4-20-10)

2. Reconveyance

   a. Any park and school land dedicated or conveyed to the County pursuant to the provisions of this section may be reconveyed by the Board of County Commissioners in accordance with the following. The reconveyance will be conditioned upon a reversion clause providing that said property will revert to the County in the event that the property is not used for park or school purposes. (am. 7-12-05; 4-20-10; am. xx-xx-xx)

      (1) School land will be reconveyed to the school district. (am. 7-12-05; am.4-20-10)

      (2) Public park land established at the request of a park and recreation district will be reconveyed to the appropriate park and recreation district. (am. 7-12-05; am.4-20-10)

      (3) Other public/private park land will be reconveyed to an owners' association or another similar entity. The owners association or other entity shall be required to manage or control said lands for the benefit of the public or for the benefit of the future owners of the proposed development, depending on the requirements established during the development process. (am. 7-12-05; am. 4-20-10; am. xx-xx-xx)

3. Fees

   a. Fees paid pursuant to this Section shall be made payable to the Jefferson County Treasurer. The fees shall be paid prior to recordation of the development mylar or in accordance with Development Agreements, Warranties and Guarantees Section of this Regulation. Such funds paid prior to recordation of the development mylar shall be deposited in interest bearing escrow accounts with accounting books maintained to identify the amount held in the name of the subdivision for which the payment was made. The funds that are paid in accordance with the Development Agreements, Warranties and Guarantees Section of this Regulation shall include the payment of the lump sum fee as indicated in the Improvements List and the accrued interest, as if deposited in interest bearing escrow accounts; the accrued interest shall be calculated from the date of the development mylar recordation to the date of payment. The current value of the accounts shall be made available upon request to the park and recreation districts, Open Space, the school district, and general public. (am. 7-12-05; am. 4-20-10; am. xx-xx-xx)

   b. Funds shall be categorized by Planning and Zoning as either "committed funds" or "uncommitted funds". (orig. 4-20-10)

      (1) "committed funds": Funds that are collected for development proposals that are located within park district boundaries and all funds collected to meet school requirements. (orig. 4-20-10)

      (2) "uncommitted funds": Park funds that are collected for developments that are located outside of district boundaries shall be considered "uncommitted funds". (orig. 4-20-10)

   c. Appeal of Fees

(1) In the event the applicant disagrees with the established park and school fees and is of the opinion that said fees do not represent the fair market value of land dedication requirement as required by CRS 30-28-133(4)(a), then they may request that the fee be revised and the following procedure will occur: (orig. xx-xx-xx)

(a) Planning and Zoning staff will evaluate the request and the supporting information from the applicant, and will present a recommendation to the Director of Planning and Zoning. (orig. xx-xx-xx)

(b) The Director of Planning and Zoning will approve or deny the request based on the information provided in the applicants request, the recommendation from the appropriate School District, Park and Recreation District or Open Space (as applicable), and the staff recommendation. (orig. xx-xx-xx)

(c) The decision by the Director of Planning and Zoning may be appealed to the Board of County Commissioners by either the applicant, the School District, Park and Recreation District or Open Space. The appeal must be in writing and must be submitted within 14 days of the decision by the Director of Planning and Zoning. The appeal to the Board of County Commissioners may be a part of the hearing for the overall development proposal, if applicable, or it may be a separate hearing to discuss this specific issue which shall occur prior to or concurrent with the final decision on the development application. (orig. xx-xx-xx)

(d) If the decision by the Director of Planning and Zoning or by the Board of County Commissioners, in the case of an appeal, is to accept a revised land valuation, then this accepted dollar per acre value shall be used to calculate the fees required for the development. (orig. xx-xx-xx)

(2) The documents that are required to be submitted by the applicant for the appeal process are identified below:: (orig. xx-xx-xx):

(a) A cover letter describing the applicant's position related to the fee requirement and the land valuation. (orig. xx-xx-xx)

(b) A Land Valuation: The valuation shall be an appraisal and shall indicate the actual market value of the property based on the criteria listed below: (orig. xx-xx-xx)

(a-1) The valuation shall be done by a qualified appraiser. A qualified appraiser shall be a member of the Appraiser Institute (M.A.I.) or an Accredited Rural Appraiser (A.R.A.). (orig. xx-xx-xx)

(a-2) The appraised value shall be provided as a dollar per acre figure.

(a-3) The valuation shall be of the buildable land area based on the proposed development.

(a-4) The infrastructure costs for the proposed development may be subtracted from the overall value of the property.

(a-5) The date of the appraisal must be within one year of the hearing or determination date for the proposed development. If the appraisal date is not in accordance with the one year rule, then Planning and Zoning may require that an updated appraisal be submitted prior to the hearing or determination. (orig. xx-xx-xx)

F. Inclusion

During the processing of a development application a Park and recreation District may request that a proposed development be included in the Park and Recreation District's boundaries. A request may occur in instances where the location of the development and the types of park amenities proposed within the development would not be sufficient, in the opinion of the Park and Recreation District, to support the population generated by the development. When such a request is submitted by the Park and Recreation District, the following procedure will occur: (orig. xx-xx-xx)

1. Planning and Zoning staff will evaluate the request and will present a recommendation to the Director of Planning and Zoning. (orig. xx-xx-xx)

2. The Director of Planning and Zoning will determine if inclusion into the Park and Recreation District will be required for the proposed development. The development should be included when the location of the development is in close proximity to an existing park and recreation district, and the park amenities proposed within the development, together with existing park facilities in the surrounding area, are not sufficient to serve the population generated by the development. The decision will be made based on the information provided by the applicant, the recommendation from the appropriate Park and Recreation District, and the staff recommendation. (orig. xx-xx-xx)

3. The decision by the Director of Planning and Zoning may be appealed to the Board of County Commissioners by either the applicant or the Park and Recreation District. The appeal must be in writing and must be submitted within 14 days of the decision by the Director of Planning and Zoning. The appeal to the Board of County Commissioners may be a part of the hearing for the overall development proposal, if applicable, or it may be a separate hearing to discuss this specific issue which shall occur prior to or concurrent with the final decision on the development application. (orig. xx-xx-xx)

4. If the decision by the Director of Planning and Zoning or by the Board of County Commissioners, in the case of an appeal, is to require the inclusion of the property into the Park and Recreation District Boundaries, then such inclusion will be required prior to the final approval of the development application. (orig. xx-xx-xx)

G. Post Development

1. Dedicated Land

   a. Land dedicated for park and school sites shall be used for the intended purpose identified during the development process. (orig. 4-20-10)

   b. Any park or school land dedicated for use by a park and recreation district, Open Space, or the school district, may be sold in accordance with the following provisions. (orig. 4-20-10)

      (1) The district or Open Space has declared that the dedicated property is surplus land. (orig. 4-20-10)

      (2) The district or Open Space agrees to sell the land through a process that legitimately establishes the fair market value of the land. If the dedicated land has not been held by the district or Open Space for more than 20 years, then the original developer has the right of first refusal to purchase the dedicated property in accordance with the statutory requirements. (orig. 4-20-10)

      (3) The district or Open Space declares that proceeds from the sale will be used to purchase new land or will be used to pay for improvements to existing facilities. (orig. 4-20-10)

      (4) The sale of the property must be approved by the Board of County Commissioners in a public hearing. Notification of the hearing shall include Community Mailing and Sign Posting in accordance with the Level I requirements of the Notification Section of this Regulation. (orig. 4-20-10)

2. Fees

   a. Funds may be dispersed from the special escrow accounts upon request by the appropriate park and recreation district, Open Space, or the school district in accordance with the following: (orig. 4-20-10)

      (1) “Committed Funds”

         (a) Park funds shall be distributed to the park and recreation district within which the specific development is located. (orig. 4-20-10)

         (b) School funds shall be distributed to the school district for use within the senior high school attendance area within which the specific development is located. (orig. 4-20-10)

         (c) The park and recreation district or school district shall submit a resolution from their board requesting that the County disburse the park funds. (orig. 4-20-10)

(d) The park and recreation district or school district shall provide a certification, on a form provided by Planning and Zoning, stating that the requested funds will be used within the park and recreation district service area or within the senior high school attendance area of the school district, for the following specific purposes: (orig. 4-20-10)

(d-1) Acquiring reasonably necessary land areas for parks and/or schools. (orig. 4-20-10)

(d-2) Capital improvement of park and/or school sites. (orig. 4-20-10)

(d-3) Growth related planning functions for educational purposes. This provision is only applicable to school funds. (orig. 4-20-10)

(2) "Uncommitted Funds"

(a) If the specific development is located outside of a park and recreation district boundary, but is located within the service area (2.5 miles outside of the district boundary) of one or more park and recreation districts, then the park funds shall be available for disbursement to those districts in accordance with the provisions listed below. If after 10 years, the funds have not been fully disbursed to the park and recreation districts, then Open Space may apply for and receive the remaining funds upon satisfying conditions (c) and (d) below. (orig. 4-20-10)

(a-1) The first 50% of the available funds shall be divided evenly amongst the applicable park and recreation districts. (orig. 4-20-10)

(a-2) The second 50% of the available funds shall be divided amongst the applicable park and recreation districts based on their percentage of district area within a 2.5 mile radius from the boundary of the specific development. (orig. 4-20-10)

(a-3) If Open Space and/or any of the applicable park and recreation districts have entered into an agreement identifying how fees should be disbursed, then the County upon review of the agreement may disburse the applicable funds in accordance with the terms of the agreement. (orig. 4-20-10)

(b) If the specific development is located outside of a park and recreation district boundary and outside of any park and recreation district service area (2.5 miles outside of the district boundary), then the park funds shall be available for disbursement in accordance with the provisions listed below. If after 10 years, the funds have not been fully disbursed to the park and recreation districts or to Open Space, Open Space may apply for and receive the remaining funds upon satisfying conditions (c) and (d) below. (orig. 4-20-10)

(b-1) 100% of the available funds shall be divided amongst any applicable park and recreation district and Open Space based on the percentage of the district and Open Space area within a 5 mile radius from the boundary of the specific development. If Open Space chooses not to apply for the specific fees, then the evaluation will include only district area within the 5 mile radius. If Open Space chooses not to apply for the specific fees and there are not any park and recreation boundaries within the 5 mile radius area, then the radius area will be increased by 2.5 mile intervals until one or more district boundaries are within the radius area. (orig. 4-20-10)

(b-2) If Open Space and/or any of the applicable park and recreation districts have entered into an agreement identifying how fees should be disbursed, then the County upon review of the agreement may disburse the applicable funds in accordance with the terms of the agreement. (orig. 4-20-10)

(c) The park and recreation district and/or Open Space shall submit a resolution from their board requesting that the County disburse the park funds. (orig. 4-20-

10)

(d) The park and recreation district and/or Open Space shall provide a certification, on a form provided by Planning and Zoning, stating that the requested funds will be used within the park and recreation district service area or within the radius established in (b) above for the following specific purposes: (orig. 4-20-10)

(d-1) Acquiring reasonably necessary land areas for parks or Open Space. (orig. 4-20-10)

(d-2) Capital improvement of parks or Open Space. (orig. 4-20-10)