TOWN OF NEW CASTLE, COLORADO
ORDINANCE 2013-7

AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL APPROVING AMENDMENTS TO PORTIONS OF THE NEW CASTLE MUNICIPAL CODE CONCERNING PARKLAND DEDICATION REQUIREMENTS.

WHEREAS, the Town Council, in consultation with the POSTr committee and the Planning Commission is reviewing the long-term recreational needs of the community; and

WHEREAS, the Town has addressed some potential recreational needs within the Comprehensive Plan, but that plan is largely designed for future development outside of existing Town boundaries; and

WHEREAS, the Town wishes to reiterate its support and commitment to the values set forth in the Comprehensive Plan and wants to provide a variety of recreational amenities within the existing Town boundaries; and

WHEREAS, the Town code currently provides that at the time of subdivision a developer must dedicate 10% of the land area for parks purposes, or pay a cash-in-lieu amount; and

WHEREAS, the Town code provides a credit against this dedication requirement for the construction of private recreational facilities, but not for public recreational facilities; and

WHEREAS, the Town desires to increase the flexibility provided to the developer and to the Town concerning park dedication requirements to ensure that adequate and desired recreational amenities are constructed within the Town as development progresses; and

WHEREAS, such amenities do not just include the dedication of raw land for active parks, but may include the construction of facilities on existing parklands; and

WHEREAS, the Town Council referred the issue of parkland dedication the Planning Commission for review; and

WHEREAS, pursuant to section 17.92.030(B) of the New Castle Municipal Code the Planning Commission held a public hearing on August 14, 2013 to formally consider the Town's application to amend the municipal code to address parkland dedication; and

WHEREAS, based on the testimony presented the Planning Commission recommended that the Town Council approve changes to the municipal code to alter the parkland dedication requirements as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the New Castle Town Council.

2. Amendment. The Council hereby approves the following amendments to Chapter 16.24 of the New Castle Municipal Code (deletions are shown with strikethroughs and additions are shown with underlines):

16.24.010 - Land dedication.

A. The town council shall require the dedication of a minimum of ten (10)-percent of the total gross land area of the parcel being subdivided to the public for schools, parks and open space or other public purpose, exclusive of the dedications of streets and other rights-of-way and areas of private recreation and open space. Such dedications shall be indicated on the preliminary and final plats. The town council, at its discretion, may require ~~of~~ or permit the subdivider to provide a cash payment in lieu of land dedication determined in accordance with the provisions of Section 16.24.040 of this chapter to be used only for the purchase of land for open space and/or for providing additional recreational facilities, upgrading existing recreational facilities and other public purposes. In determining whether to accept land dedication or cash in lieu thereof, the planning commission and town council shall consider the following: the size of the development and its adequacy for accommodating a suitable public use site; the community facility aspects of the comprehensive plan and any comprehensive plan of the school district; existing parks and other public uses in the area; the topography, geology and location of land in the subdivision available for dedication; the needs of the people in the area; and any other appropriate factors. If land is dedicated to the town, it shall be free of all liens and encumbrances except as approved by the town council.

B. The town council may require reservation of sites for schools and other public purposes. Land dedicated may include the one hundred (100) year floodplain, national and state historical or natural features, and proposed public areas set aside in state, regional, county or city comprehensive plans. Land dedicated for active recreational uses shall not include sites for technical or private schools, sites for service organizations which are not open to the general public, and sites unsuitable for public use due to steep slopes (over twenty-five ~~thirty-five~~ (~~35~~ 25) percent grade), rock formations, adverse topography, utility easements, or other features which may be harmful to the health and safety of the citizens of the town.

C. The above requirements shall not apply in cases where satisfactory dedication arrangements were made and approved by the town council at the time of final subdivision of the same property.

16.24.020 - Reservation of land for schools and other public agencies.

If requested by a public agency, the town council may require a subdivider or developer to reserve land areas sufficient for development of school or other public agency facilities. A public agency includes the state of Colorado, or any political subdivision thereof.

A. Land reserved shall, by the nature of its natural topography, soil condition and connecting utilities, lend itself to development of the desired facility.

B. Land reserved shall be purchased by the public agency at its fair market value as determined below, according to the following schedule:

1. Within ninety (90) days following approval of the final plat, the requesting agency and the subdivider or developer shall enter into an option agreement for a period of no greater than one year, with a renewal provision for one additional year.

2. When the option is signed, the public agency shall deposit with an escrow agent an amount that shall be determined by the public agency and the developer to equal the actual costs and expenses, plus ten (10) percent, of replatting the subdivision if the option is not exercised. In the event the public agency and developer cannot agree upon the estimated expenses, then the town administrator shall make the determination. In the event the option is extended for an additional year, the public agency shall deposit an additional ten (10) percent of the estimated costs and expenses with the escrow agent.

3. For the purpose of this section, the fair market value of the land reserved shall be the value of the raw, undeveloped land, plus a proportionate share, as they benefit the reserved land, of the actual cost of the improvements required by the subdivider or developer.

4. In the event the public agency and the subdivider or developer cannot agree as to the fair market value, the parties shall submit the matter to binding arbitration, under such rules and regulations as the town council may prescribe by resolution.

16.24.030 - Credit for ~~private~~ construction of recreation facilities.

If requested by the subdivider or developer the town may give ~~the subdivider or developer~~ credit towards the parkland dedication requirement for ~~private~~ the construction of public or private recreation facilities ~~in the development~~ within the town, provided that:

A. ~~The amount of land to be dedicated may be reduced by no more than fifty (50) percent of the requirements of this chapter;~~ At the time of approval of the final subdivision the town council, upon recommendation from the planning commission, shall determine how much of the land dedication requirements of this Chapter, if any, may be credited due to the construction of the recreation facilities. The town council shall refer to the process set forth in Section 16.24.040 to determine the relative value of the land dedication requirement overall as compared to the costs of the facilities to be constructed. The town council shall determine the final amount of the credit and it may be more or less than this guideline, after taking into consideration the overall recreational needs of the town and the proposed development and how those needs are met by the developer's proposal. Such a credit, together with timelines and benchmarks for construction of the recreation facilities and any required security for public

improvements shall be reflected in a subdivision improvements agreement or development agreement between the developer and the town.

B. The town council determines that the ~~private~~ recreation facilities ~~offered~~ constructed will absorb a major portion of the recreational demands of the residents or employees of the proposed development or, in the case of construction that does not occur within the boundaries of the proposed development, that the proposed subdivision is adequately served by existing recreational facilities and the proposed off-site construction will provide a significant benefit to the town;

C. The ~~private~~ recreation facilities will be constructed at the same time as or prior to the housing, industrial or commercial facilities in the development;

D. There are sufficient safeguards in the subdivision improvement agreement to ensure that the ~~private~~ recreation facilities are completed at the same time as or before the remainder of the development.

16.24.040 - Cash payment in lieu of dedication.

A. At the option of the town council, the subdivider or developer may be required or permitted on or before final passage of the ordinance approving subdivision, to pay to the town payment in cash or to transfer other property in lieu of land dedication. The amount of cash payment shall be determined by multiplying the square footage of the area required to be dedicated by this chapter by the parkland fee, as determined below, calculated as of the year of final subdivision approval. If the council determines to accept other property instead of, or as a partial payment toward the cash payment required hereunder, the council shall determine the value of the other property.

B. Payment in lieu of land dedication shall be made prior to final approval of the ordinance approving the subdivision, and such payment shall be placed in a recreation fund to be established and maintained by the town for the acquisition of land and for the improvement of parks, playground and recreation areas in the town, and may benefit the residents of the town in general, as well as those of the proposed subdivision.

C. The park land fee that may be accepted in lieu of land dedication shall be established each year by the town council upon a recommendation from the planning commission. In the event the town council does not establish a park land fee that may be accepted in lieu of land dedication in a given year the fee last adopted by the town council shall remain in effect until revised. These fees shall approximate the cost to acquire land sufficient to meet park needs for the ensuing year.

4. Effective Date. This Ordinance shall be effective fourteen days after final publication pursuant to section 4.3 of the Town Charter.

INTRODUCED on September 18, 2013, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and

ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the Town of New Castle, Colorado on October 1, 2013, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO

By: _____
Frank Breslin, Mayor

ATTEST:

_____
Melody Harrison, Town Clerk

TOWN OF NEW CASTLE
GARFIELD
SEAL
COUNTY
COLORADO

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