

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 13-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 90-443(d) "CHARACTER AND MINIMUM DEDICATION" OF DIVISION 9, "PARK AND RECREATIONAL AREAS," OF ARTICLE VI, "STANDARDS," OF CHAPTER 90 OF THE TOWN'S CODE OF ORDINANCES BY ADDING MINIMUM PARK LAND DEDICATION REQUIREMENTS FOR MULTI-FAMILY AND SENIOR HOUSING USES; BY AMENDING SECTION 90-446(b) "PARK DEVELOPMENT FEES" OF DIVISION 9, "PARK AND RECREATIONAL AREAS," OF ARTICLE VI, "STANDARDS," OF CHAPTER 90 OF THE TOWN'S CODE OF ORDINANCES BY CLARIFYING THE PARK DEVELOPMENT FEE REQUIREMENT; BY ADDING A NEW SECTION 90-449 "PARK CREDIT OPTION" OF DIVISION 9, "PARK AND RECREATIONAL AREAS," OF ARTICLE VI, "STANDARDS," OF CHAPTER 90 OF THE TOWN'S CODE OF ORDINANCES TO PROVIDE OPTIONS FOR PRIVATELY MAINTAINED AND PUBLICLY ACCESSIBLE PARKS AND OPEN SPACE; BY AMENDING SECTION 98-902(c) "DEVELOPMENT STANDARDS" OF DIVISION 25, "MU MIXED USE DISTRICT," OF ARTICLE III, "DISTRICT REGULATIONS," OF CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES BY AMENDING THE NOTE CONTAINED IN SECTION 3.0 OF TABLE 3; BY AMENDING SECTION 98-905(b) "MODIFICATIONS" OF DIVISION 25, "MU MIXED USE DISTRICT," OF ARTICLE III, "DISTRICT REGULATIONS," OF CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES BY CLARIFYING THE PARK LAND DEDICATION AND PARK DEVELOPMENT FEE REQUIREMENTS FOR THE MU MIXED USE DISTRICT; BY AMENDING SECTION 98-905(b), SUBSECTIONS 1-3 "MODIFICATIONS" OF DIVISION 25, "MU MIXED USE DISTRICT," OF ARTICLE III, "DISTRICT REGULATIONS," OF CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES BY DELETING SAID SUBSECTIONS; BY ADDING A NEW SECTION 98-815, "PARK DEDICATION AND PARK DEVELOPMENT FEES" OF DIVISION 21, "PD PLANNED DEVELOPMENT DISTRICT," OF ARTICLE III, "DISTRICT REGULATIONS," OF CHAPTER 98 OF THE TOWN'S CODE OF ORDINANCES BY CLARIFYING THE PARK STANDARDS FOR PD PLANNED DEVELOPMENT DISTRICTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Town Council previously adopted Chapters 90 and 98 to the Code of Ordinances establishing comprehensive regulations for the subdivision and zoning of land with the development of real property within the Town; and

WHEREAS, the Town Council finds and determines that park and open space regulations related to multi-family and senior housing should be established to allow options for privately maintained and publicly accessible open space; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Texas Local Government Code, Chapter 78 of the Town's Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Land Development Regulations Amendment; and,

WHEREAS, the Town Council finds that the amendments to Chapters 90 and 98 as outlined herein is in the best interest of the Town of Flower Mound, Texas, and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound, Texas and the general public.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

That Section 90-443(d) "Character and minimum dedication" of Chapter 90 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by to read as follows:

Sec. 90-443. - Character and minimum dedication.

- (d) The minimum amount of park and recreational area that shall be dedicated pursuant to this division shall be: 3.36 acres per 100 dwelling units for single-family detached, and single-family attached uses; 2.78 acres per 100 dwelling units for multi-family uses, and; 2.4 acres per unit for age-restricted residential uses meeting the provisions of the Federal Housing for Older Persons Act. Land within floodplain and floodway designated areas shall not be counted toward meeting the requirement of this subsection, subject to Section 90-449.

SECTION 2

That Section 90-446(b) "Park development fees" of Chapter 90 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by to read as follows:

Sec. 90-446. - Character and minimum dedication.

- (b) *Fee.* Park development fees shall be \$1,388.00 per unit as listed in Appendix A of this Code.

SECTION 3

That Section 90-449 "Park dedication credit option" of Chapter 90 of the Code of Ordinances, Town of Flower Mound, Texas, is added to read as follows:

Sec. 90-449. – Park credit option.

- a) *Purpose and Intent*: The Town finds that publically accessible open space is necessary to create a place of recreation and relaxation for its residents. An opportunity exists between the Town, property owners, and developers to enhance the residents' quality of life by providing options for privately maintained and publicly accessible open space. This open space will ensure that new residential development augments and complements the Town's public parks and facilities.
- b) *Definitions*: In addition to the definitions contained in Subpart B of the Town's Code of Ordinances, the following definitions shall also apply to development electing to pursue the Credit Option:
- *Credit Option* means the alternative option of providing privately maintained and publically accessible open space under this section in lieu of dedicating park land or payment in lieu thereof, in accordance with Sections 90-444 and 90-445, hereof.
 - *Director of Planning Services* means the Town's Director of Planning Services or the Director's designee.
 - *Enhanced paving* means a paving treatment that consists of stamped concrete, stained concrete, brick or stone paving, or any combination of said treatments. *Open space associated with and integral to, specific buildings* means open space that cannot otherwise be constructed without also constructing an associated building. Examples include courtyards that are integrated into the design of a building or set of buildings, or a square that cannot remain open and accessible, or undamaged during the construction of an adjacent building.
 - *Open Space Plan* means a detailed, scaled drawing meeting all of the submittal requirements of this Section.
 - *Open Space Types* means courtyards, natural areas, greens or lawns, natural preserves, plazas, squares, detention/retention facilities, and general open space.
 - *Structured recreation* means larger recreational facilities such as playground equipment, sport courts, splash pads, adult and youth fitness stations, natural and interactive playgrounds, and outdoor classrooms.
 - *Mixed-use development* means development that proposes vertical mixed use that combines different uses in the same building.
 - *Multi-use development* means development that proposes a horizontal mix of uses that combines single-use buildings on distinct parcels in a range of land uses within a block.
- c) *Applicability*: The Credit Option may only be applied to residential uses within the following zoning districts:

- 1) A PD Planned Development District that permits residential uses in a Mixed-use development or a Multi-use development, approved by the Town Council after April 15, 2019.
- 2) An MU Mixed Use District, approved by the Town Council after April 15, 2019.
- d) *Required Park Land Dedication Options:* Applicants eligible for the Credit Option under this Section 90-449 may request that the Town Council consider accepting privately maintained and publically accessible open space to fully or partially offset the otherwise required public park land dedication, or fees in lieu thereof.
- e) *Submittal Requirements for the Credit Option:* The following is required for eligible applicants seeking the Credit Option alternative:
 - 1) Open Space Plan: Eligible applicants shall submit an Open Space Plan with the zoning application for the subject property. The Open Space Plan shall include all of the following detail:
 - a) Conceptual landscaping associated with the applicant's zoning application that complies with the Town's Concept Landscape Plan requirements.
 - b) Location, description, Open Space Type, and minimum area of all open spaces.
 - c) Location and description of natural features listed in Section 90-449(f) as well as any such features identified in the Environmentally Sensitive Area Survey required by the Town's SMARTGrowth Program. This information may be provided on a separate plan sheet for clarity purposes.
 - d) Location and area of all proposed publically accessible open spaces within the development.
 - e) Location, dimension, and type of pedestrian connections between open space amenities.
 - f) Location and preliminary design details of all proposed open space amenities.
 - g) A summary of the perpetual maintenance proposed for each open space area, which maintenance must be feasible and appropriate for each Open Space Type.
 - h) Phasing and location of the open space associated with the overall development and the open space associated with, and integral to, specific buildings.
 - i) A checklist of all required information to be depicted on an Open Space Plan shall be maintained by the Director of Planning Services.
 - 2) Open Space Easement: All publically accessible open space accepted by the Town in lieu of otherwise required park land dedication, or the payment of fees in lieu thereof, shall be dedicated to the public as a permanent public access easement, reflected on the face of a plat. All such open space shall be maintained by the property owner(s) or the property owners' association. Changes to a dedicated open space access easement are permitted only after Town Council approval following a recommendation by the Town Parks Board. Changes to an open space access easement may not reduce the amount of Council-approved open space, the amount of land that is publically accessible, or the accessibility standards outlined in the easement.
- f) *Open Space Types and Credit Calculation:* Each area of open space that meets the requirements of this Section shall be eligible to receive a Town Council approved reduction in

the amount of park land dedication, or fee payment in lieu thereof, otherwise required. The amount of credit that may be granted for eligible open space shall be dependent on whether additional or enhanced amenities are provided, as described herein. Each proposed open space shall be subject to the following Open Space Type-specific criteria and maximum credit eligibility limitations. The Planning Department shall maintain representative examples of each Open Space Type to provide illustrative guidance, the Guide to Open Space Types, on the design, development, character, activation, and location for each Open Space Type.

- 1) *Courtyard*. A courtyard is an unoccupied space, open to the sky, which is bound on two (2) or more sides by the exterior walls of the building or by two (2) or more exterior walls, lot lines or yards. Courtyards may be totally enclosed on all sides by the exterior walls of a building provided that an open pedestrian connection to a public sidewalk, public street, or platted public access easement is included.
 - a) A courtyard must, at a minimum, incorporate the following amenities:
 - 1) Enhanced paving.
 - 2) Seating and associated shade.
 - 3) A focal point in the form of a fountain, sculpture, art installation, or landscape feature.
 - b) Lighting: Accent lighting is required.
 - c) Signage: None if open to a public street. Alternatively, appropriate directional signage if the courtyard is not open to a public street.
 - d) Landscape Design: A coordinated planting scheme shall be installed.
 - e) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and three quarter (1.75) acres of required park land for every one (1) acre of courtyard open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than two and one half (2.5) acres of required park land for every one (1) acre of courtyard open space provided.
- 2) *Natural Area*. A natural area is open space which consists of areas in the flood plain, upland habitat, creeks, water bodies, topographical slopes, and other environmentally sensitive areas. Amenities within the natural area shall be limited to nature trails, paths, and equestrian trails. The size of a natural area may vary depending upon the environmental element being preserved. Natural areas may also be subject to a conservation easement.
 - a) A natural area must, at a minimum, incorporate the following amenities:
 - 1) A natural area must connect to any trail identified on the Town's Parks and Trails Master Plan, if the planned trail is present within the development (or contiguous with the development) and is located within three hundred feet (300') of the natural area. The natural area must also be accessible from the development's planned commercial or residential areas through the installation of an interconnected system of sidewalks or trails.
 - 2) Paved and/or natural trails that traverse the natural area must be provided, including a defined entrance and signage.
 - 3) Wildlife viewing areas, mountain biking, disc golf, interpretation and education facilities, where conditions permit, are optional but are encouraged.

- b) Lighting: Exterior lighting is prohibited except in limited circumstances where low voltage accent lighting may be appropriate.
 - c) Signage: A natural area may include interpretive kiosks, as deemed appropriate.
 - d) Landscape Design: Natural areas shall incorporate landscaping at entryways or around structures where appropriate. In these situations, sustainable design is preferred.
 - e) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and one half (1.5) acres of required park land for every one (1) acre of natural area open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than two and one quarter (2.25) acres of required park land for every one (1) acre of natural area open space provided.
- 3) *Green or Lawn.* A green or lawn is an open space available for unstructured recreation and as a gathering place. A green or lawn may be bordered by landscaping rather than buildings and should be adjacent to active uses such as retail and restaurant uses. Its landscape shall consist of land and trees in a coordinated arrangement, requiring minimal maintenance. The size of a green or lawn shall not be less than one half (0.5) acre and shall not exceed two (2) acres in size.
- a) A green or lawn must, at a minimum, incorporate the following amenities:
 - 1) Seating and associated shade.
 - b) Lighting: Street lighting, or ambient accent and bollard lighting, shall be installed, as appropriate.
 - c) Signage: No signage shall be permitted if the green or lawn is open to a public street. Appropriate directional signage shall be installed if not open to a public street.
 - d) Landscape Design: A green or lawn shall be predominately turf with a coordinated planting scheme.
 - e) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and three quarter (1.75) acres of required park land for every one (1) acre of green or lawn open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than two and half (2.5) acres of required park land for every one (1) acre of green or lawn open space provided.
- 4) *Natural Preserve.* A natural preserve is intended primarily to provide unstructured recreation. Any structured recreation within a natural preserve shall be limited to less than ten percent of the area. A natural preserve is usually independent of surrounding building frontages. Its landscape consists of natural paths, trails, meadows, woodlands, and open shelters. A natural preserve must be greater than one (1) acre in size.
- a) A natural preserve must, at a minimum, incorporate the following amenities:
 - 1) A natural preserve must connect to any trail identified on the Town's Parks and Trails Master Plan, if the planned trail is present within the development (or contiguous with the development) and is located within three hundred feet (300') of the natural preserve. The natural preserve must also be accessible

from the development's planned commercial or residential areas through the installation of an interconnected system of sidewalks or trails.

- 2) Seating and associated shade.
 - 3) Structured Recreation; playground, splash pad, or other type of recreational use as recommended by the Director of Parks and Recreation.
 - b) Lighting: Exterior lighting is prohibited except in limited circumstances where low voltage accent lighting may be appropriate.
 - c) Signage: Signage shall be placed adjacent to all entrances, as well as appropriate directional signage if the park is not open to a public street.
 - d) Landscape Design: A coordinated planting scheme must be implemented.
 - e) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and one half (1.5) acres of required park land for every one (1) acre of natural preserve open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than two and one quarter (2.25) acres of required park land for every one (1) acre of natural preserve open space provided.
- 5) *Plaza*. A plaza is an open space available for civic purposes and limited commercial activities. A plaza is spatially defined by buildings and its landscape shall consist primarily of enhanced pavement with trees being optional. Plazas are to be located in the core or transition areas of the development and shall be no larger than one (1) acre in size. Plazas can be wider sidewalks or extensions of sidewalks for the purpose of providing outdoor seating for restaurants and cafes.
- a) A plaza must, at a minimum, incorporate the following amenities:
 - 1) Enhanced Paving that defines the space and includes a change in material or colors.
 - 2) Seating and associated shade. Adjacent buildings may satisfy the requirement for necessary shade if the plaza is designed to benefit from building shade during the summer months.
 - b) Lighting: Exterior lighting is prohibited except in limited circumstances where low voltage accent lighting may be appropriate.
 - c) Signage: No signage shall be required if the plaza is open to a public street. Appropriate directional signage shall be required if the plaza is not open to a public street.
 - d) Landscape Design: A coordinated planting scheme must be implemented. Planters that incorporate seating are encouraged and appropriate.
 - e) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and three quarter (1.75) acres of required park land for every one (1) acre of plaza open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than two and one half (2.5) acres of required park land for every one (1) acre of plaza open space provided.
- 6) *Square*. A square is generally a geometrically symmetrical open space, typically one half (0.5) to two (2) acres in size, available for unstructured recreation and civic purposes. A square is spatially defined by streets and buildings on at least three (3) sides. Its landscape consists of paths, lawns, and trees, all formally arranged.

- a) A square must, at a minimum, incorporate the following amenities:
 - 1) Enhanced Paving that defines the space and includes a change in materials or colors.
 - 2) Seating and associated shade. Adjacent buildings may satisfy the requirement for necessary shade if the square is designed to benefit from building shade during the summer months.
 - 3) A primary focal point in the form of a fountain, sculpture, art installation, or landscape feature.
 - b) Lighting: Perimeter lighting and accent lighting shall be permitted, where appropriate.
 - c) Signage: No signage is permitted if the square is open to a public street. Appropriate directional signage shall be installed if the square is not open to a public street.
 - d) Landscape Design: Turf, trees, and coordinated planting scheme shall be implemented within the square. Planters that incorporate seating are encouraged, where appropriate.
 - e) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and three quarter (1.75) acres of required park land for every one (1) acre of square open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than two and one half (2.5) acres of required park land for every one (1) acre of square open space provided.
- 7) *Retention/Detention Facilities.* Retention/detention facilities are storm water management basins designed to collect storm water and slowly release it at a controlled rate so that downstream areas are not flooded or eroded. These facilities must be designed for multiple uses, and must incorporate include low impact design principals in order to qualify for the Credit Option.
- a) Retention/detention facilities must, at a minimum, incorporate the following amenities:
 - 1) Natural stone or brick veneer complementary to the development is required on headwalls, bridges, culverts, retaining walls, and like structures.
 - 2) A minimum eight-foot (8') trail is required around the retention/detention facility except where site conditions such as excessive slopes or outfall structures render construction of the trail infeasible. The trail shall connect to internal trails proposed within the development. The trail shall also connect to any trail identified on the Town's Parks and Trails Master Plan, if the trail required by this subsection (f)(7)(a)(2) of this section is located within three hundred feet (300') of the trail identified on the Town's Parks and Trails Master Plan and the latter is located within the development or is contiguous to the development.
 - 3) Seating and associated shade.
 - b) Retention/detention facilities must, at a minimum, incorporate the following facility-specific amenities:
 - 1) Detention basins must be designed to achieve a multi-purpose use that provides access to the basin for active and passive recreation activities.

- 2) Retention basins must provide at least one (1) overlook with at least one (1) bench, one (1) trash receptacle, and a minimum of three (3) shade trees.
 - c) Lighting: Perimeter lighting and accent lighting shall be permitted where appropriate.
 - d) Signage: No signage is permitted if the retention/detention facility is open to a public street. Appropriate directional signage shall be installed if the retention/detention facility is not open to a public street.
 - e) Landscape Design: Shade trees, planted a minimum of thirty-feet (30') on center, staggered on each side of the trail surrounding the retention/detention facility, shall be planted.
 - f) The following engineering standards shall apply to the design of a retention/detention facility:
 - 1) The retention/detention facility must comply with the provisions of Chapter 32, the Town's Engineering Design Criteria and Construction Standards.
 - 2) The slope of a retention pond shall not exceed three twenty five percent (25%); provided, however, any slope that exceeds three percent (3%) shall incorporate stone terracing. Terracing or the cutting of a sloped plane into a series of successively receding flat surfaces or platforms, must have a maximum shelf depth of three feet (3') with a maximum six inch (6") risers, and shall not negatively impact Environmentally Sensitive Areas regulated by the Town's SMARTGrowth Program.
 - g) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one (1) acre of required park land for every one (1) acre of retention/detention facility open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than one and one half (1.5) acres of required park land for every one (1) acre of retention/detention facility open space provided.
- 8) *General Open Space.* Open spaces that do not fit into any of the Open Space Types identified above may be considered by the Park Board for eligibility for the Credit Option. General open space may be accepted by the Town Council, following a recommendation by the Parks Board, if the Town Council finds that the general open space satisfies the purpose and intent of this section, as set forth in subsection (a) of this section.
- a) Credit Option: If the development satisfies the standards above, the Town Council may approve a credit towards the required park land dedication, or fees in lieu thereof, on a per acre basis, at a ratio of one and three quarter (1.75) acres of required park land for every one (1) acre of general open space provided. In the event additional or enhanced amenities are provided, the Town Council may increase the credit to a ratio of no more than one and one half (1.5) acres of required park land for every one (1) acre of general open space provided.
- 9) *Calculation.* Calculation of the open space eligible for credit shall be in accordance with the following:
- a) Eligible open space shall exclude all rights-of-way or easements for streets or alleys, required street buffers and setbacks, required screening and landscaping for parking, storage and refuse areas, parking, parking lot tree islands, utility yards,

town trail extensions as outlined in the Town Parks and Trails Master Plan, and all Area Plan requirements as set out in the Master Plan.

- b) Floodplain or water impoundments, as identified in Section 98-148, shall only be eligible for credit in the natural area Open Space Type. The maximum amount of floodplain or water impoundment that may be counted toward open space credit shall not exceed fifty percent (50%) of the total area of open space credit applied to the development. Any amount of floodplain or water impoundment that exceeds this limitation shall be excluded from the credit calculation.
 - c) Areas of proposed natural area and natural preserve open space: 1) containing grades subject to Section 98-147, governing topographical slope protection, 2) located outside of the floodplain, and 3) which prohibit public access, may be counted toward up to fifty percent (50%) of the allowable open space credit. The remaining fifty percent (50%) of the proposed natural area or natural preserve open space must not be subject to the protections set forth in Section 98-147 and must be publicly accessible.
- g) *Review and Approval Process for the Credit Option:*
- 1) The Open Space Plan shall be reviewed by the Director of Planning Services in conjunction with a zoning application for conformance with the standards contained in this Section. An Open Space Plan shall be considered a component of the zoning application for the development. The Park Board shall evaluate the recommendations of the Director of Planning Services on all matters related to this Section and shall render a recommendation to the Planning and Zoning Commission and Town Council regarding the application for the Credit Option, prior to the Planning and Zoning Commission's consideration of the zoning case.
 - 2) Where Open Space Type requirements and amenities are required based on their appropriateness, the Director of Planning Services, shall make a recommendation to the Park Board about the appropriateness of the Open Space Type requirements and amenities, based on the plans and details submitted with the application. All questions regarding the appropriateness of amenities and compliance with the requirements for each Open Space Type shall be finally decided by the Town Council.
 - 3) The Open Space Plan shall be attached to and shall be an integral component of the approved zoning ordinance for the development.
 - 4) All questions regarding the calculation of eligible open space acreage to be considered for park land dedication credit, or credit for fees in lieu thereof, shall be finally decided by the Town Council. Any otherwise eligible open space acreage omitted from the above calculation by the Town Council shall be deemed to have been rejected by the Town Council. Credit for one hundred percent (100%) of the otherwise required park land dedication, or fees in lieu thereof, shall be reserved only for developments offering Open Space Types and amenities of exceptional character and extraordinary quality.
 - 5) All questions regarding the classification of areas as to Open Space Type, shall be finally decided by the Town Council.

h) *Park Development Fee:*

- 1) Applicability. Applicants applying for the Credit Option shall pay park development fees in accordance with Section 90-446, except as provided below:
 - a. Credit for amenities constructed within approved open space. Amenities constructed within approved open space shall be eligible for credit towards park development fees in accordance with Section 90-446(c). Only structured recreation, internal extensions of the Town's required trail system, and pedestrian bridges may be eligible for credit towards park development fees that are otherwise required.

i) *Phasing and Timing:*

- 1) A phasing plan shall be submitted with the zoning application, as part of the development's development standards. The phasing plan shall include the following:
 - a. Phasing of each open space associated with the overall development.
 - b. Phasing of open space proposed to be associated with, and integral to, specific buildings within the development.
 - c. Phasing of all perimeter landscaping and trails.
 - d. Phasing of trails and sidewalks that provide pedestrian connectivity between open space amenities.
 - e. Proposed compliance with the requirements of Section 90-448.
 - f. Any maps or other graphic depictions necessary to illustrate the proposed phasing plan, as required by the Director of Planning Services.
- 2) A completion schedule for the open spaces proposed by the applicant shall be submitted at the time of site plan application for the development and be consistent with the approved phasing.
- 3) Detention/Retention open space credit types and associated amenities shall be completed prior to the acceptance of the subdivision. If the development requires more than one (1) detention/retention pond, then the ponds associated with the phase under construction must be completed prior to the acceptance of that phase of the subdivision.
- 4) Construction/installation of open space and enhancements associated with and integral to specific buildings shall be completed prior to issuance of a Certificate of Occupancy or Building Final of that building.

j) *Amendments to approved plans or regulations associated with developments containing approved open space:*

- 1) The concept plans, Open Space Plan, and development standards establish the regulatory framework of land uses, building location and design, Open Space Type, locations and amenities, access, parking, and trail and sidewalk connectivity, as established by the applicant in conjunction with the zoning application. Any changes to the Open Space Plan that are beyond the range of flexibility provided in the ordinance establishing the zoning district, or as provided in subsection (j)(4) below, shall constitute

a major change and shall necessitate a formal amendment of the zoning ordinance governing the development.

- 2) The Director of Planning Services may approve minor changes to and deviations from the Open Space Plan, based upon the applicant's written justification for such changes. Upon approval, a revised Open Space Plan shall be filed with the Town. The Director of Planning Services may deny a minor change or deviation from the Open Space Plan regardless of the applicant's written justification. In the event of such denial, an applicant may instead seek approval of the change or deviation by filing an application to amend the zoning ordinance governing the development.
- 3) Any requested minor change or deviation shall be reviewed in the context of prior and pending minor changes. If a pending request for a minor change or deviation, when taken together with the development's prior minor changes, would constitute a major change in the opinion of the Director of Planning Services, the requested minor change or deviation shall be processed as a major change necessitating an amendment to the zoning ordinance governing the development.
- 4) Major changes to the approved Open Space Plan include any of the following:
 - a. Elimination of trail connectivity shown on the approved plans.
 - b. Any changes to the development standards for open space that were approved with the ordinance establishing the zoning district.
 - c. Any reductions in excess of ten percent (10%) in any one of the open space type areas in any phase of the development that was approved as part of the Open Space Plan.

SECTION 4

That Section 98-902(c) "Development Standards" of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, specifically the note contained in Section 3.0 of Table 3 is hereby amended by to read as follows:

*Overall open/civic space allocations in the MU District shall be a minimum of 5 percent (5%) of the gross area of the entire site included in the MU concept plan and shall be distributed appropriately between the MU components. Higher open space allocations may be eligible for height bonuses outlined in Section 7(i). The location and design of appropriate open spaces shall be based on Section 7(g) of this Chapter.

SECTION 5

That Subsection (b) of Section 98-905 of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby deleted in its entirety and replaced with the following:

Sec. 98-905. - Modifications.

- (b) *Park land dedication and park development fees requirements.* The park land dedication and park development fee requirements set forth in Division VIII of Article 6, Chapter 90 shall apply and exclusively govern MU Mixed Use zoning districts. This Division 25 of Article III, Chapter 98 does not authorize park land dedication or park development fee standards that deviate from the requirements of Division VIII of Article 6, Chapter 90.

SECTION 6

That Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding a new Section 98-815 "Park dedication and park development fees," which shall read as follows:

Sec. 98-815. – Park dedication and park development fees.

The park land dedication and park development fee requirements set forth in Division VIII of Article 6, Chapter 90 shall apply and exclusively govern PD Planned Development zoning districts. This Division 21 of Article III, Chapter 98 does not authorize park land dedication or park development fee standards that deviate from the requirements of Division VIII of Article 6, Chapter 90.

SECTION 7

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

SECTION 8

All rights and remedies of the Town of Flower Mound, Texas, are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 9

All ordinances, orders or resolutions heretofore passed the adopted by the Town Council of the Town of Flower Mound, Texas, are hereby repealed to the extent that said ordinances, resolutions, or parts thereof, are in conflict herewith.

SECTION 10

The Town Secretary of the Town of Flower Mound, Texas, is hereby directed to publish the caption of this Ordinance in the official newspaper of the Town of Flower Mound, Texas, as required by Section 3.07 of the Charter of the Town of Flower Mound, Texas.

SECTION 11

This Ordinance shall take effect and be in full force from and after the date of its passage and publication.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 15TH DAY OF APRIL, 2019.

APPROVED:

STEVE DIXON, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY