ARTICLE XIII - Recreational Facilities & Open Space

§180 Miniparks Required

(a) Subject to §180(b), all residential developments shall provide recreational areas in the form of miniparks in an amount equal to:

<table>
<thead>
<tr>
<th>Number of Bedroom(s) Within Dwelling Unit</th>
<th>Square feet of Recreational Area Required per Dwelling Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>One (1)</td>
<td>153</td>
</tr>
<tr>
<td>Two (2)</td>
<td>240</td>
</tr>
<tr>
<td>Three (3)</td>
<td>349</td>
</tr>
<tr>
<td>Four (4) or more</td>
<td>436</td>
</tr>
</tbody>
</table>

Such recreational areas shall be provided in addition to the open space areas required by §182.

(b) The board recognizes that miniparks must be of a certain minimum size to be usable and that such miniparks will not serve the intended purpose unless properly maintained. Therefore, residential developments that are small enough so that the amount of required minipark space does not exceed two thousand (2,000) square feet are exempt from the provisions of this section. However, as used in the foregoing sentence, the term development refers to the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the development is constructed in phases or stages. In addition, residential developments of less than thirteen (13) dwelling units shall also be exempt from the provisions of this section.

(c) Payment in Lieu. As an alternative to satisfying the minipark requirements (reserving land and providing active recreational facilities to serve the development), the developer may be allowed to pay a fee-in-lieu to satisfy the minipark requirements (reserving land and constructing active recreational facilities to serve the development) upon the approval of the permit issuing authority.

(d) Computation of Payment in Lieu. Where a fee is to be paid in-lieu with respect to a development, the amount of such fee shall be per the published Town of Siler City Fee Schedule for the fee-in-lieu amount for required construction of active recreational facilities.

(e) Fees collected in lieu and any proceeds from such transactions or sales shall be held in a special fund by the Town, and the funds shall be used by the Town for the purpose of acquiring, developing, and rehabilitating public recreation areas (both land and capital improvements) to Town-owned recreational facilities and for no other purpose. The depository for such funds may be the same as permitted for other funds of the Town. Collected fees shall be appropriated by the Town Board for a specific project to serve the residents within the immediate area of the subject development. The immediate area shall be defined as the nearest existing community/neighborhood/mini park (Boling Lane Park, W.F. Collins Park, Earl B. Fitts Community Center, Ernest Ramsey Gym, Landrus Siler Park, Loves Creek Greenway, Paul Braxton Park/Gym, or Washington Avenue Park) and/or any district park (Bray Park Sports Complex/Swimming Pool). The nearest community/neighborhood/mini park shall be determined by measuring a straight line from the subject development property boundary to the community/neighborhood/mini park property boundary. The district park is a park that serves all of the residents in the community. The Town may, at its discretion, add additional monies to the fund for the purposes of purchasing, developing, and rehabilitating public recreational land to be used for public recreational purposes.

(f) The developer shall indicate on the permit application whether land reservation and providing active recreational facilities are proposed or whether to pay a fee in lieu. The permit issuing authority shall determine which option as part of the permit approval. The reservation of land and construction of the minipark shall be completed prior to final plat approval or final zoning permit inspection approval. The payment in lieu fees shall be paid prior to final plat or zoning permit approval. Covenants for the minipark shall be submitted to the Town for review and recorded prior to final plat or zoning permit approval (see §183).

(g) The permit issuing authority has the option to require:
a. reserving land and providing active recreational facilities to serve the development; or
b. a fee-in-lieu be paid to satisfy the minipark requirements (reserving land and constructing active
recreational facilities to serve the development); or

c. any combination of the two (2) options listed above.

Amended April 2, 2018, November 19, 2018

§181 Miniparks: Purpose and Standards
(a) The purpose of the minipark is to provide adequate active recreational facilities to serve the residents of the
immediately surrounding neighborhood within the development. The following are illustrative of the types of
facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the
minipark requirements of this article: badminton court, baseball field, basketball court, bocci ball, croquet court, dog
park, disc golf, exercise room, fishing pier, football field, golf course, greenway, grill, handball court, horseshoe pit,
lacrosse field, meeting or activity rooms within clubhouse, mountain bike trail, pedestrian path, picnic table
(minimum 36” wide x 72” long x 30” tall), picnic shelter, playground/play apparatus, racquetball court, rugby field,
sauna, shuffleboard, skateboard park, slides, soccer field, softball field, swimming pool/splash pad (compliance with
regulations of State Building Code and County Health Department), swings, tennis court, tot lot, trash receptacle,
ultimate disc field, volleyball court, walking trail.

(b) Each development shall satisfy its minipark requirements by installing the types of recreational facilities that
are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However,
unless it appears that less than five (5) percent of the residents of any development are likely to be children under
twelve (12), then at least fifteen (15) percent of the minipark must be satisfied by the construction of "tot lots" (i.e.,
areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for
parents).

(c) The total acreage of miniparks required by §180 shall be divided into miniparks of not less than two
thousand (2,000) square feet.

(d) Miniparks shall be attractively landscaped and shall be provided with sufficient natural or manmade
screening or buffer areas to minimize any negative impacts upon adjacent residences.

(e) Each minipark shall be centrally located and easily accessible so that it can be conveniently and safely
reached and used by those persons in the surrounding neighborhood it is designed to service.

(f) Each minipark shall be constructed on land that is relatively flat, dry, and capable of serving the purposes
intended by this article.

(g) Miniparks shall comply with the following regulations:
(1) Miniparks may be covered with sand, mulch, crushed gravel, or other material as being appropriate
for the proposed development
(2) Shall be equipped with an open shelter and tables in an amount approved as being appropriate for
the proposed development Improvements shall include commercial-grade play equipment.

Amended April 2, 2018

§182 Usable Open Space
(a) Purpose. Open spaces preserve natural resources and provide areas for active and passive recreation in
developed areas and protect property values, public health, safety, environmentally sensitive areas, and water
quality.

(b) Except as provided in §182(c), every residential development shall be developed so that at least five (5)
percent of the total area of the development remains permanently as usable open space. Such open space shall be
provided in addition to the recreation areas required by §180.

(c) For purposes of this section, usable open space means an area that:
(1) Is not encumbered with any substantial structure,
(2) Is not devoted to use as a roadway, parking area, or sidewalk,
(3) Is left (as of the date development began) in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective set forth in §182(b)(4),
(4) Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation, and
(5) Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required pursuant to §184.

(d) Residential developments of less than thirteen (13) dwelling units are exempt from the requirements of this section unless the town agrees that it will accept an offer of dedication of such open space, and in that case the offer of dedication shall be made in accordance with §184.

(e) Payment in Lieu. As an alternative to satisfying the useable open space requirements (reserving land to serve the development), the developer may be allowed to pay a fee-in-lieu to satisfying the useable open space requirements (reserving land to serve the development) upon the approval of the permit issuing authority. However, no more than fifty (50) percent of the required amount of open space shall be satisfied by payment in lieu.

(f) Computation of Payment in Lieu. Where a fee is to be paid in-lieu with respect to a development, the amount of such fee shall be the highest appraised tax value (at the time of final plat or zoning permit approval) or most recent sale price, whichever is greater, for the amount of reserved land from the parcel for which the open space is being reserved.

(g) Fee collected in lieu and any proceeds from such transactions or sales shall be held in a special fund by the Town, and the funds shall be used by the Town for the purpose of acquiring, developing, and rehabilitating public recreation areas (both land and capital improvements) to Town-owned recreational facilities and for no other purpose. The depository for such funds may be the same as permitted for other funds of the Town. Collected fees shall be appropriated by the Town Board for a specific project to serve residents within the immediate area of the subject development. The immediate area shall be defined as the nearest existing community/neighborhood/mini park (Boling Lane Park, W.F. Collins Park, Earl B. Fitts Community Center, Ernest Ramsey Gym, Landrus Siler Park, Loves Creek Greenway, Paul Braxton Park/Gym, or Washington Avenue Park) and/or any district park (Bray Park Sports Complex/Swimming Pool). The nearest community/neighborhood/mini park shall be determined by measuring a straight line from the subject development property boundary to the community/neighborhood/mini park property boundary. The district park is a park that serves all of the residents in the community. The Town may, at its discretion, add additional monies to the fund for the purposes of purchasing, developing, and rehabilitating public recreational land to be used for public recreational purposes.

(h) The developer shall indicate on the permit application whether land reservation is proposed or whether to pay a fee in lieu. The permit issuing authority shall determine which option as part of the permit approval. The reservation of land shall be completed prior to final plat approval or final zoning permit inspection approval. The payment in lieu fees shall be paid prior to final plat approval or zoning permit approval. Covenants for the open space shall be submitted to the Town for review and recorded prior to final plat approval (see §183).

(i) The permit issuing authority has the option to require:
   (1) reserving land as open space to serve the development; or
   (2) a fee-in-lieu be paid to satisfy the useable open space requirements (reserving land to serve the development); or
   (3) any combination of the two (2) options listed above.

Amended April 2, 2018, November 19, 2018
§183 Ownership and Maintenance of Recreational Areas and Required Open Space
(a) Except as provided in §184, recreation facilities and usable open space required to be provided by the developer in accordance with this article shall not be dedicated to the public but shall remain under the ownership and control of the developer (or his successor) or a homeowners association or similar organization that satisfies the criteria established in §185.

(b) The person or entity identified in Subsection (a) as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

§184 Dedication of Open Space
(a) If any portion of any lot proposed for residential development lies within an area designated on the officially adopted recreation master plan as a community/neighborhood/mini park/district park or part of the greenway system or bikeway system, the area so designated (not exceeding five (5) percent of the total lot area) shall be included as part of the area set aside to satisfy the requirement of §182. This area shall be dedicated to public use upon approval by the Board of Commissioners.

(b) If more than five (5) percent of a lot proposed for residential development lies within an area designated as provided in §184(a), the town may attempt to acquire the additional land in the following manner.
   (1) The developer may be encouraged to resort to the procedures authorized in §173 or §174 and to dedicate the common open space thereby created; or
   (2) The town may purchase or condemn the land.

(c) Subject to applicable law, the Town shall have the right to sell any land dedicated to the Town for open space, recreation, or park on finding by the Board of Commissioners that a particular piece of property is not feasible or compatible with the Town’s land development plan. The proceeds from such transactions or sales shall be held in a special fund by the Town, and the funds shall be used by the Town for the purpose of acquiring, developing, and rehabilitating public recreation areas (both land and capital improvements) to Town-owned recreational facilities and for no other purpose. The depository for such funds may be the same as permitted for other funds of the Town. The funds shall be appropriated by the Town for a specific project to serve the residents of the subject development. The Town may, at its discretion, add additional monies to the fund for the purposes of purchasing, developing, and rehabilitating public recreational land to be used for public recreational purposes.

Amended April 2, 2018

§185 Homeowners Associations
(a) Homeowners associations or similar legal entities including, but not limited to, non-profit land trust or land conservancy that, pursuant to §183, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:
   (1) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
   (2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities.

The association or similar legal entity has the power to compel assessments from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

Amended April 2, 2018

§186 Flexibility in Administration Authorized
(a) The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities and open space to be provided in connection with residential developments are established by the town board as standards that presumptively will result in the provision of that amount of recreational activities and open space that is consistent with officially adopted town plans. The town board recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision.
Therefore, the permit-issuing body is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

(b) Whenever the permit-issuing board authorizes some deviation from the standards set forth in this article pursuant to Subsection (a) The official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

§187 through §192 Reserved