

**ORDINANCE NO. (O)11-05**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY ARIZONA, ADOPTING REVISIONS TO THE ORO VALLEY ZONING CODE REVISED (OVZCR) SECTION 26.5, PROVISION OF RECREATIONAL AREA, ATTACHED HERETO AS EXHIBIT "A"; AND AMENDING CHAPTER 31, DEFINITIONS; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER**

**WHEREAS**, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

**WHEREAS**, on March 13, 1981, the Mayor and Council approved Ordinance (O) 81-58, which adopted that certain document entitled "Oro Valley Zoning Code Revised" (OVZCR); and

**WHEREAS**, updating the Oro Valley Zoning Code Revised (OVZCR) Chapter 26, Subdivision and Development Plans, Section 26.5, Provision of Recreational Area is on the Planning Division work plan; and

**WHEREAS**, the proposed OVZCR Section 26.5 addresses a portion of the larger goal of creating an integrated system of park facilities; and

**WHEREAS**, the proposed OVZCR Section 26.5 applies to private recreation areas within new residential subdivisions; and

**WHEREAS**, the Town desires to amend OVZCR Chapter 31, Definitions to reflect the proposed changes to OVZCR Section 26.5; and

**WHEREAS**, the Planning and Zoning Commission reviewed the proposed Chapter 26, Subdivision and Development Plans, Section 26.5, Provision of Recreational Area and Chapter 31, Definitions at a duly noticed public hearing on December 7, 2010 in accordance with State Statutes and recommended approval of the proposed new OVZCR, Section 26.5, Provision of Recreational Area and amendments to Chapter 31, Definitions, to the Town Council; and

**WHEREAS**, the Oro Valley Town Council has considered the proposed OVZCR, Section 26.5, Provision of Recreational Area and amendments to Chapter 31, Definitions, and the Planning and Zoning Commission's recommendation and finds it consistent with the Town's General Plan and other Town ordinances; and

**WHEREAS**, at a duly noticed Town Council Meeting on February 16, 2011, Chapter 26, Subdivisions and Development Plans, Section 26.5, Provision of Recreational Area and Chapter 31, Definitions, was declared a public record by Mayor and Council.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Oro Valley, Arizona that:

**SECTION 1.** That certain document entitled Chapter 26, Subdivision and Development Plans, Section 26.5, Provision of Recreational Area, of the Oro Valley Zoning Code Revised, attached hereto as Exhibit "A" and incorporated herein by this reference and declared a public record on February 16, 2011 is hereby adopted.

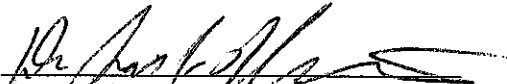
**SECTION 2.** Chapter 31, Definitions of the Oro Valley Zoning Code Revised is hereby amended by adding new definitions for Crime Prevention through Environmental Design (CEPTED) (Definition Number 87.5); Linear Park (Definition Number 185.5); Tot Lot (Definition Number 338.5), and renumbering all definitions thereafter. Definition Number 126, Fair Market Value, is hereby amended with additions in ALL CAPS and deletions in ~~strikethrough text~~, and renumbering all definitions thereafter

**SECTION 3.** All Oro Valley ordinances, resolutions, or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona on the 20<sup>th</sup> day of April, 2011.

**TOWN OF ORO VALLEY**


  
Dr. Satish I. Hiremath, Mayor

**ATTEST:**

  
Julie K. Bower, Town Clerk

Date: 4/21/11

**APPROVED AS TO FORM:**

  
Tobin Rosen, Town Attorney

Date: 4/20/11

PUBLISH: DAILY TERRITORIAL  
MAY 3, 4, 5, 6 2011

POSTED: 4/29/11 - 5/29/11

**EXHIBIT "A"**

**EXHIBIT "A", ORDINANCE (O) NO. 11-05  
OV710-01 AMENDMENT TO SECTION 26.5 PROVISION OF RECREATIONAL AREA/  
CHAPTER 31, DEFINITIONS- REPEAL AND REPLACE SECTION**

**COUNCIL APPROVED VERSION  
4/20/11**

**A. APPLICABILITY**

1. THE PROVISION OF RECREATIONAL FACILITIES SHALL BE REQUIRED OF ALL RESIDENTIAL SUBDIVISIONS, EXCEPT THOSE LOCATED WITHIN THE R1-36, R1-43, R1-144, AND R1-300 ZONING DISTRICTS.

**B. RECREATIONAL AREA PLAN SUBMITTAL AND APPROVAL**

1. THE DEVELOPER SHALL SUBMIT A RECREATIONAL AREA PLAN AS PART OF THE PRELIMINARY PLAT. THIS RECREATIONAL PLAN SHALL INCLUDE MINIMUM IMPROVEMENTS FOR RECREATIONAL PURPOSES AS REQUIRED BY SUBSECTION D.
2. THE RECREATIONAL AREA PLAN SHALL BE SUBMITTED AT THE TIME OF PRELIMINARY PLAT SUBMITTAL AND SHALL BE REVIEWED BY TOWN COUNCIL CONCURRENT WITH THE PRELIMINARY PLAT.
3. APPROVAL OF THE PLAN BY THE TOWN COUNCIL, AFTER REVIEW AND RECOMMENDATIONS BY THE PARKS AND RECREATION ADVISORY BOARD (FOR PUBLIC RECREATIONAL AREAS) AND THE CONCEPTUAL DESIGN REVIEW BOARD (FOR PRIVATE RECREATIONAL AREAS), SHALL BE A PREREQUISITE TO APPROVAL OF THE FINAL PLAT.
4. ALL RECREATIONAL AREA PLANS SHALL BE REVIEWED BY THE ORO VALLEY POLICE DEPARTMENT (OVPD) FOR CONFORMANCE TO CPTED DESIGN ELEMENTS CONTAINED IN SECTION D.5.
5. MODIFICATION OF FACILITIES AND AMENITIES DEPICTED ON THE APPROVED RECREATIONAL AREA PLAN
  - A. MODIFICATIONS DEEMED NECESSARY AND BENEFICIAL TO PROVIDE FOR THE RECREATIONAL NEEDS OF RESIDENTS ARE SUBJECT TO APPROVAL BY THE PARKS, RECREATION, LIBRARY AND CULTURAL RESOURCES (PRLCR) DIRECTOR AND PLANNING AND ZONING ADMINISTRATOR.
  - B. ALL MODIFICATIONS SHALL CONFORM TO THE PROVISIONS OF THIS CODE.

**C. MINIMUM RECREATION AREA STANDARDS**

1. AN AREA SHALL BE DEVOTED TO AND DESIGNATED AS "RECREATIONAL AREA" ON THE CONCEPTUAL SITE PLAN FINAL SUBDIVISION PLAT WHICH EQUALS A RATIO OF ONE ACRE TO EVERY 85 DWELLING UNITS.
2. THE RECREATIONAL AREA SHALL BE USABLE AND ACCESSIBLE BY ALL SUBDIVISION RESIDENTS-AND SHALL PROVIDE AMENITIES THAT BEST SERVE THE NEEDS OF THE DEVELOPMENT.
3. UPON REVIEW AND RECOMMENDATIONS FROM THE PARKS AND RECREATION ADVISORY BOARD THE TOWN COUNCIL MAY ALLOW ENVIRONMENTALLY SENSITIVE OPEN SPACE (ESOS) TO BE CREDITED TOWARD THE RECREATION REQUIREMENTS OF THIS SECTION, SUBJECT TO THE PROVISIONS OF SECTION 27.10.F.2.C OF THE CODE. THE APPLICANT MAY RECEIVE A CREDIT FOR THIS PROPERTY AT A 1:1 RATIO FOR A MAXIMUM OF ONE HUNDRED PERCENT (100%) OF THE REQUIRED RECREATIONAL AREA.
4. CREDIT MAY BE OBTAINED ONLY WHEN THE FOLLOWING CRITERIA ARE MET:
  - A. THE AREA SHALL BE DETERMINED A TO CONTAIN SIGNIFICANT, UNIQUE AND DESIRABLE ENVIRONMENTAL, SCENIC OR CULTURAL FEATURES FOR THE TOWN AND THE
  - B. THE AREA SHALL BE DELINEATED AS COMMON AREA, DESIGNATED WITH A CONSERVATION EASEMENT, WITH OWNERSHIP TO BE HELD IN COMMON BY THE HOMEOWNERS ASSOCIATION OR THE TOWN.
  - C. THE AREA SHALL BE ACCESSIBLE VIA SIDEWALK, WALKING PATH, TRAIL, AND/OR BICYCLE OR SHARED USE PATH BY ALL RESIDENTS WITHIN THE PROJECT.

**D. RECREATIONAL AREA PLAN STANDARDS**

1. SITE LOCATION
  - A. RECREATIONAL AREAS SHALL BE A FOCAL POINT FOR PASSIVE AND ACTIVE RECREATIONAL ACTIVITIES, AND PROVIDE A MEANINGFUL PLACE

FOR NEIGHBORHOOD GATHERINGS AND ACTIVITIES. RECREATION AREAS SHALL BE PLACED IN A HIGHLY VISIBLE AREA OF THE SUBDIVISION THAT IS ACCESSIBLE VIA SIDEWALK, WALKING PATH, TRAIL, AND/OR BICYCLE OR SHARED USE PATH BY ALL RESIDENTS WITHIN THE PROJECT.

- B. LINEAR PARKS, AS DEFINED BY THIS CODE AND DESCRIBED IN SECTION D.2.H, ARE ACCEPTABLE WHEN THEY SERVE TO IMPROVE ACCESS TO RECREATIONAL AMENITIES AND OPEN SPACE NETWORKS.
- C. PASSIVE RECREATION AREAS SHOULD BE LOCATED IN PROXIMITY TO NATURAL OPEN SPACE AREAS AND CONSERVED, ENVIRONMENTALLY SENSITIVE LANDS.
- D. RECREATIONAL AREAS SHALL NOT INCLUDE LANDS DETERMINED UNUSABLE FOR RECREATIONAL PURPOSES BY THE PLANNING AND ZONING ADMINISTRATOR (PZA). THE PZA SHALL CONSULT WITH THE TOWN ENGINEER AND PARKS, RECREATION, LIBRARY, AND CULTURAL RESOURCES DEPARTMENT (PRLCR) DIRECTOR PRIOR TO MAKING A DETERMINATION. SHALLOW RETENTION BASINS (FLOOD PRONE AREAS) MAY BE ACCEPTED FOR USE AS RECREATIONAL AREAS SUBJECT TO TOWN ENGINEER APPROVAL AND ACCEPTANCE BY THE TOWN COUNCIL.
- E. IN CASES WHERE A RECREATIONAL AREA LIES ADJACENT TO A TRAIL IDENTIFIED WITHIN THE EASTERN PIMA COUNTY TRAILS SYSTEM MASTER PLAN AND/OR THE ORO VALLEY TRAILS TASK FORCE REPORT AND THEIR SUBSEQUENT UPDATES, A CONNECTION SHALL BE PROVIDED BETWEEN THE RECREATIONAL AREA AND SAID TRAIL.

2. RECREATIONAL FACILITIES IMPROVEMENT STANDARDS

- A. RECREATIONAL AREA IMPROVEMENTS SHALL BE APPROPRIATE TO THE ANTICIPATED NEEDS OF THE DEVELOPMENT.
- B. EQUIPMENT INSTALLED WITHIN THE RECREATIONAL AREAS SHALL COMPLY WITH THE PROVISIONS OF THE AMERICAN WITH DISABILITIES ACT (ADA).

- C. PROVISION OF ONE ACTIVE AND ONE PASSIVE AMENITY FOR THE FIRST HALF-ACRE OR PORTION THEREOF. FOR EVERY ADDITIONAL HALF-ACRE (NOT FRACTIONS), AN ADDITIONAL PASSIVE AND ACTIVE USE SHALL BE PROVIDED UP TO THE MAXIMUM PROVIDED BY THE FOLLOWING SECTIONS.
  - I. A SINGLE PARK AREA MAY CONTAIN UP TO FIVE PASSIVE AMENITIES. EXAMPLES OF PASSIVE AMENITIES INCLUDE TURF AREAS, BENCHES, PICNIC TABLES, SHADE STRUCTURES, BARBECUE GRILLS, PATHWAYS, ETC.
  - II. A SINGLE PARK AREA MAY CONTAIN UP TO THREE ACTIVE AMENITIES. EXAMPLES OF ACTIVE AMENITIES INCLUDE BASKETBALL COURTS, VOLLEYBALL COURTS, BOCCE COURTS, HORSESHOE PITS, PAR COURSES, ETC.
- D. DETAILED SCHEMATICS SHALL BE PROVIDED FOR EACH PROPOSED AMENITY WITH THE FINAL PLAT.
- E. CREDIT FOR ENHANCED AMENITIES

CREDIT FOR THE ADDITIONAL COST OF ENHANCED RECREATIONAL AMENITIES, INCLUDING COMMUNITY SWIMMING POOLS, SPLASH PADS, SKATE/BMX PARKS, FULLY IMPROVED SPORTS FIELDS, AND OTHER AMENITIES APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR, MAY BE OBTAINED AGAINST THE RECREATION AREA REQUIREMENT IN SECTION 26.5.C,1 BASED ON THE FOLLOWING CRITERIA:

- I. THE APPLICANT SHALL SUBMIT A COST ESTIMATE SUMMARIZING THE FOLLOWING:
  - A. VALUE OF THE LAND AND COST OF THE IMPROVEMENTS AND AMENITIES THAT WOULD BE REQUIRED BY THIS CODE
  - B. VALUE OF THE LAND AND COST OF THE IMPROVEMENTS AND ENHANCED AMENITIES PROPOSED AS ALTERNATIVE MEANS OF COMPLIANCE.
- II. CREDIT FOR THE ADDITIONAL COST OF THE ENHANCED AMENITIES MAY BE RECEIVED IN



THE FORM OF A REDUCTION TO THE  
REQUIRED RECREATION LAND AREA.

- III. THE EXTENT OF THE CREDIT SHALL BE DETERMINED BY THE VALUE OF THE ENHANCED AMENITY AS DETERMINED BY THE TOWN. THE MAXIMUM REDUCTION OF RECREATION AREA REQUIREMENT IS ONE HALF (1/2) ACRE.
- F. CREDIT FOR IMPROVED INDOOR RECREATIONAL SPACE MAY BE OBTAINED SUBJECT TO THE FOLLOWING CRITERIA:
- I. IMPROVED COMMUNITY RECREATION ROOMS, COMMUNITY CENTERS, GYMNASIUMS, PERFORMANCE SPACE, OR OTHER RECREATION SPACE ACCESSIBLE TO ALL RESIDENTS OF A DEVELOPMENT SHALL RECEIVE CREDIT AT A RATIO OF 3:1 AGAINST THE AREA REQUIREMENT CONTAINED IN SECTION B.1.
  - II. EACH ACTIVE AND PASSIVE AMENITY CONTAINED WITHIN AN INDOOR RECREATIONAL SPACE SHALL RECEIVE A CREDIT TO THE RECREATIONAL AMENITY REQUIREMENTS CONTAINED IN SUBSECTIONS 2.B, 2.C, AND 2.D AT A 1:1 RATIO.
- G. WHEN APPROPRIATE TO THE NEEDS OF THE RESIDENTS, TOT LOT AMENITIES SHALL BE REQUIRED. TOT LOTS SHALL INCLUDE, AT A MINIMUM:
- I. PLAY EQUIPMENT AREA
  - II. DRINKING FOUNTAIN
  - III. SEATING AREA (MAY INCLUDE BENCHES OR SEAT WALLS) ORIENTED TOWARDS THE PLAY EQUIPMENT
  - IV. TRASH RECEPTICLE(S)
  - V. BICYCLE PARKING WITH A 4-BICYCLE MINIMUM CAPACITY
  - VI. PICNIC TABLE
  - VII. LIMITED TURF AREA FOR ACTIVITY AREAS ONLY (<15% OF TOTAL RECREATIONAL AREA) MAY BE PROVIDED
- H. LINEAR PARKS MAY BE UTILIZED TO SATISFY THE RECREATIONAL REQUIREMENTS OF THIS SECTION. REQUIRED AMENITIES INCLUDING AT A MINIMUM:

- I. A SHARED USE PATH FOR PEDESTRIANS AND BICYCLISTS
- II. SEATING AREA
- III. LANDSCAPING
- IV. DRINKING FOUNTAIN, IF LOCATED WITHIN 100 FEET OF A POTABLE WATER LINE
- V. TRASH RECEPTACLE(S)
- VI. PET WASTE REMOVAL STATION(S).
- VII. EXERCISE STATIONS MAY BE LOCATED WITHIN LINEAR PARKS.

- I. THE LOCATION OF THE AMENITIES ALONG A LINEAR PARK IS SUBJECT TO THE APPROVAL OF THE PLANNING AND ZONING ADMINISTRATOR AND PRLCR DIRECTOR.

3. PLAY EQUIPMENT STANDARDS

- A. APPLICANT SHALL SUBMIT EVIDENCE THAT PLAY EQUIPMENT COMPLIES WITH THE CURRENT AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) SAFETY STANDARDS FOR PLAYGROUND EQUIPMENT
- B. PLAYGROUND SURFACE MATERIALS, INCLUDING CERTIFIED WOOD FIBER, SHREDDED RUBBER, POURED-IN-PLACE SURFACING, OR OTHER ACCEPTABLE MATERIAL APPROVED BY THE PRLCR DIRECTOR, SHALL BE PLACED AT A MINIMUM DEPTH OF TWELVE INCHES UNDER THE EQUIPMENT.
- C. NO PLAY EQUIPMENT SHALL BE LOCATED WITHIN 30 FEET OF ANY ROAD RIGHT-OF-WAY, DRIVEWAY OR ALLEYWAY, PARKING AREA, OR SINGLE-FAMILY RESIDENTIAL LOT OR SINGLE-FAMILY RESIDENTIAL ZONE UNLESS AN ACCEPTABLE BARRIER IS PROVIDED.
- D. PLAY EQUIPMENT OR APPARATUS WITH A FOOTPRINT OF 250 SQUARE FEET OR LESS MUST BE FULLY SHADED WITH A UV-RESISTANT SUN SHADE OR OTHER APPROPRIATE SHADING MATERIAL OR STRUCTURE AS APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR AND PERMITTING DIVISION.
- E. AT LEAST FIFTY (50%) OF PLAY EQUIPMENT OR APPARATUS BE FULLY SHADED WITH A UV-RESISTANT SUN SHADE OR OTHER APPROPRIATE SHADING MATERIAL OR STRUCTURE AS APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR AND PERMITTING DIVISION. THIS REQUIREMENT SHALL BE APPLIED ONLY TO PLAY EQUIPMENT OR APPARATUS WITH A FOOTPRINT OF 250 SQUARE FEET OR GREATER.

- F. TO MAXIMIZE THE SAFETY OF CHILDREN, PLAY SPACES SHALL BE LOCATED AS TO PROVIDE MAXIMUM VISIBILITY FROM SURROUNDING HOMES.
  - G. PLAY EQUIPMENT SHALL NOT BE LOCATED ON A SLOPE GREATER THAN FOUR PERCENT.
4. PAVED ON-SITE OR ON-STREET PARKING ADJACENT TO THE RECREATION AREA SHALL BE PROVIDED AS FOLLOWS:
- A. FOR DEVELOPMENTS OF 100 DWELLING UNITS OR LESS: ONE PARKING SPACE FOR EVERY TWENTY (20) DWELLING UNITS OR PORTION THEREOF.
  - B. FOR DEVELOPMENTS WITH MORE THAN 100 UNITS: ONE ADDITIONAL PARKING SPACE FOR EVERY FORTY (40) DWELLING UNITS OR PORTION THEREOF OVER 100.
  - C. MOBILITY-IMPAIRED ACCESSIBLE SPACES SHALL BE PROVIDED AS REQUIRED IN SECTION 27.7.E OF THIS CODE.
5. CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED) ELEMENTS
- A. RECREATIONAL AREA DESIGN SHALL CONSIDER THE FOLLOWING CPTED ELEMENTS:
    - I. NATURAL SURVEILLANCE: EMPHASIS ON VISIBILITY OF THE RECREATIONAL FACILITIES, ALSO KNOWN AS "EYES ON THE STREET", TO DETER UNAUTHORIZED USERS AND ACTIVITIES.
    - II. ACCESS CONTROL: USE OF DESIGN ELEMENTS TO DENY ENTRANCE TO RECREATIONAL FACILITIES TO UNAUTHORIZED USERS AND ACTIVITIES.
6. ALL RECREATIONAL AREAS SHALL POST AT LEAST ONE SIGN AT THE PRIMARY ENTRANCE(S) STATING:
- A. HOURS OF OPERATION
  - B. PARK/RECREATIONAL AREA RULES.
  - C. TRESPASSING NOTICE FOR UNAUTHORIZED USERS, INCLUDING CITATION OF APPLICABLE ORDINANCES/STATUTES.
  - D. NOTICE THAT ALL DOGS MUST BE KEPT ON A LEASH (UNLESS AN APPROVED OFF-LEASH AREA HAS BEEN DESIGNATED).
  - E. EMERGENCY (911) CONTACT INFORMATION TO REPORT SUSPICIOUS OR CRIMINAL ACTIVITY.

- F. IF RECREATIONAL AREA IS PRIVATELY OPERATED, HOMEOWNERS ASSOCIATION CONTACT INFORMATION TO REPORT MAINTENANCE OR SAFETY ISSUES.
- 7. IF A NEIGHBORHOOD WATCH EXISTS, A SIGN SHALL BE POSTED AT THE PRIMARY ENTRANCE(S) TO THE RECREATIONAL AREA.
- 8. IF THE RECREATIONAL AREA ABUTS AN ENVIRONMENTALLY SENSITIVE LANDS (ESL) AREA, A SIGN SHALL BE POSTED EVERY 100 FEET AT THE BORDER OF THE ESL AREA. THE SIGN SHALL CONFORM TO THE ESL SIGN REQUIREMENTS PER SECTION 27.10 OF THIS CODE.
- 9. IF PROVIDED, RESTROOM FACILITIES SHALL BE LOCATED IN A HIGHLY VISIBLE AREA AND SHALL BE FREE OF SHRUBS THAT REACH A MATURE HEIGHT GREATER THAN THREE (3) FEET.
- 10. ALL LIGHTING SHALL BE CONSISTENT WITH THE STANDARDS OF SECTION 27.5 OF THE THIS CODE AND MUST BE TURNED OFF BY 10PM.
- 11. IF NO LIGHTING IS PROVIDED, RECREATION AREA HOURS SHALL BE LIMITED TO DAYLIGHT HOURS ONLY AND SHALL BE POSTED ON THE INFORMATIONAL SIGN(S) AT THE PARK ENTRANCE(S) REQUIRED BY SUBSECTION D.6.

**E. FACILITIES INSTALLATION, OWNERSHIP AND MAINTENANCE**

1. PRIVATE RECREATIONAL FACILITIES

- A. IN CASES WHERE THE RECREATIONAL FACILITY IS TO BE PRIVATELY OWNED, RECREATIONAL FACILITIES AND PARKING IMPROVEMENTS SHALL BE COMPLETED AND IN PLACE BY THE TIME THIRTY-FIVE (35) PERCENT OF THE BUILDING PERMITS ARE ISSUED. PRIOR TO RELEASE OF THE REQUIRED BOND OR ASSURANCE, THE DEVELOPER SHALL PROVIDE WRITTEN DOCUMENTATION TO THE TOWN THAT ALL MECHANISMS ARE IN PLACE TO PROTECT THE RIGHTS OF THE HOMEOWNERS (I.E., LIABILITY INSURANCE).
- B. PRIVATE RECREATIONAL AREAS AND IMPROVEMENTS SHALL BE OWNED AND MAINTAINED BY A MANDATORY MEMBERSHIP HOMEOWNER'S ASSOCIATION (HOA) CREATED BY COVENANTS. IF THE HOA FAILS TO ADEQUATELY MAINTAIN THE REQUIRED RECREATIONAL FACILITIES, THE TOWN MAY CAUSE THE PROPERTY TO BE MAINTAINED AND MAY CAUSE A LIEN TO BE PLACED ON THE PROPERTY, SUBJECT TO AND INFERIOR TO THE LIEN FOR GENERAL TAXES AND TO ALL PRIOR RECORDED MORTGAGES AND ENCUMBRANCES OF RECORD.

2. PUBLIC PARK FACILITIES

A. IN CASES WHERE THE REQUIRED RECREATIONAL AREA IS AT LEAST THREE (3) ACRES IN SIZE AND IS LOCATED ADJACENT TO A PUBLIC THOROUGHFARE, DEDICATION TO THE TOWN MAY BE ACCEPTED. IN THIS CASE, THE PARK LAND SHALL BE OWNED AND MAINTAINED BY THE TOWN. THE SUBDIVIDER SHALL, WITHOUT CREDIT:

- I. PROVIDE FULL STREET IMPROVEMENTS AND UTILITY CONNECTIONS INCLUDING, BUT NOT LIMITED TO, CURBS, GUTTERS, STREET PAVING, TRAFFIC CONTROL DEVICES, LIGHTING, STREET TREES, AND SIDEWALKS TO LAND WHICH IS DEDICATED PURSUANT TO THIS SECTION
- II. PROVIDE SOLID MASONRY FENCING ALONG THE PROPERTY LINE OF THAT PORTION OF THE SUBDIVIDED LOTS CONTIGUOUS TO THE DEDICATED LAND
- III. PROVIDE IMPROVED DRAINAGE THROUGH THE SITE; AND
  1. PROVIDE OTHER IMPROVEMENTS AND AMENITIES THAT WHICH THE TOWN COUNCIL DETERMINES TO BE ESSENTIAL TO THE ACCEPTANCE OF THE LAND FOR RECREATIONAL PURPOSES. SUBSEQUENT IMPROVEMENTS, IF ANY, SHALL BE DEVELOPED AND MAINTAINED BY THE TOWN.

B. WHEN PARK LAND IS DEDICATED TO, AND ACCEPTED BY, THE TOWN, THE PROVISIONS OF SUBSECTION B.2.1. SHALL NOT APPLY.

**F. IN-LIEU FEE OPTION**

1. IN LIEU OF THE REQUIRED PRIVATE RECREATIONAL AREA OR PUBLIC PARK LAND DEDICATION AND REQUIRED RECREATIONAL FACILITIES, THE TOWN COUNCIL MAY APPROVE AN ALTERNATIVE PROPOSAL FOR AN IN-LIEU FEE THAT AIDS IN THE DEVELOPMENT OR IMPROVEMENT OF TOWN PARKS OR RECREATIONAL FACILITIES. ALL SUBDIVISIONS CONTAINING 43 LOTS OR LESS MAY UTILIZE THE IN-LIEU FEE OPTION.
2. SUBDIVISIONS OF 85 LOTS OR MORE MAY ELECT TO UTILIZE THE IN-LIEU FEE OPTION FOR UP TO FIFTY (50%) PERCENT OF THE TOTAL COST OF RECREATION AREA IMPROVEMENTS AS DETERMINED BY THE RECREATION AREA IN-LIEU FEE CALCULATION DEFINITION. THE REMAINING PORTION OF THE RECREATION IMPROVEMENT OBLIGATION SHALL BE APPLIED TO

ON-SITE RECREATION AREA(S) AND AMENITIES PER THE PROVISIONS OF THIS CODE.

3. IN-LIEU FEE PROPOSALS SHALL MEET ALL OF THE FOLLOWING CONDITIONS:
  - A. THE SUBDIVISION HAS OR CAN PROVIDE LEGAL AND PHYSICALLY-CONSTRUCTED ACCESS TO AN EXISTING ORO VALLEY PUBLIC PARK, A PARK LOCATION IDENTIFIED IN THE TOWN PARKS, OPEN SPACE AND TRAILS MASTER PLAN, OR OTHER LOCATED APPROVED BY THE PRLCR DIRECTOR.
  - B. THE TOTAL AMOUNT OF THE IN-LIEU FEE DETERMINED BY THE RECREATION AREA IN-LIEU FEE CALCULATION IS, IN THE OPINION OF THE PLANNING AND ZONING ADMINISTRATOR (PZA) AND PRLCR DIRECTOR, SUFFICIENT TO FUND A SPECIFIC PARK DEVELOPMENT OR IMPROVEMENT PROJECT FOR AN EXISTING FACILITY.
4. THE PROPOSAL SHALL BE PREPARED BY THE APPLICANT AND SUBMITTED TO THE PZA AND PRLCR DIRECTOR WHO SHALL FORWARD THEIR RECOMMENDATIONS TO THE TOWN COUNCIL FOR ITS ACTION AFTER AN ADVERTISED PUBLIC HEARING.
5. THE TERMS OF THE AGREEMENT SHALL BE MADE A MATTER OF PUBLIC RECORD AND A CONDITION OF APPROVAL OF ANY FINAL PLAT OR ISSUANCE OF ANY PERMITS FOR THE SUBDIVISION.
6. IN EVALUATING A PROPOSAL UNDER THIS SECTION, THE TOWN COUNCIL SHALL CONSIDER THE IMPACT ON THE PROPERTY RESULTING FROM A CHANGE IN THE STANDARD REQUIREMENTS FOR RECREATIONAL SPACE, THE ADVANTAGES AND DISADVANTAGES OF THE PROPOSED ALTERNATIVES, THE BENEFITS AFFORDED TO THE SUBIDIVISION FROM THE ALTERNATIVE PROPOSAL AND THE RELATIVE VALUES TO THE COMMUNITY AFFORDED BY THE ALTERNATIVE PROPOSAL, AS COMPARED WITH THE STANDARD REQUIREMENTS.
7. THE AGREEMENT SHALL PROVIDE FOR THE FUNDING OF EQUIVALENT OF PARK LAND AND/OR RECREATIONAL FACILITIES TO THE TOWN AS WOULD HAVE BEEN PROVIDED BY A RECREATIONAL AREA IN THE SUBDIVISION.
8. IF THE SUBDIVIDER OBJECTS TO THE DETERMINED FAIR MARKET VALUE, HE/SHE MAY APPEAL TO THE TOWN COUNCIL, WITH THE BURDEN OF PROOF LYING WITH THE SUBDIVIDER.
9. THE TOWN COUNCIL MAY WAIVE THE REQUIREMENTS FOR AN APPRAISAL WHEN THE SUBDIVIDER PROVIDES ACCEPTABLE ALTERNATIVE INFORMATION TO THE PLANNING AND ZONING

ADMINISTRATOR (PZA), PRLCR DIRECTOR, AND THE FINANCE DIRECTOR AS A MEANS OF DETERMINING THE IMPROVED VALUE THAT IS PRESENTED AND ACCEPTED AT A TOWN COUNCIL PUBLIC HEARING.

### **CHAPTER 31 DEFINITIONS**

**TOT LOT:** A SMALL (TYPICALLY <1/2 ACRE) RECREATIONAL AREA PRIMARILY INTENDED FOR YOUNG CHILDREN (AGES 8 AND UNDER), WITH A PRIMARY EMPHASIS ON PLAYGROUND EQUIPMENT AND SUPPORTING AMENITIES AND INFRASTRUCTURE.

**LINEAR PARK:** A LINEAR PARK IS A PARK THAT HAS A MUCH GREATER LENGTH THAN WIDTH. A LINEAR PARK TYPICALLY INCLUDES A SHARED USE PATH FOR PEDESTRIANS AND BICYCLES, AS WELL AS SEATING AREAS AND OTHER APPROPRIATE SUPPORTING AMENITIES TO PROVIDE ACTIVE AND PASSIVE RECREATIONAL OPPORTUNITIES.

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CEPTED):** A MULTI-DISCIPLINARY APPROACH TO DETERRING CRIMINAL BEHAVIOR THROUGH ENVIRONMENTAL DESIGN. THE ENVIRONMENTAL DESIGN SHOULD ENCOURAGE DESIRABLE BEHAVIOR AND FUNCTIONALITY. CEPTED EMPHASIZES SURVEILLANCE, ACCESS CONTROL, AND DEFINITION OF OWNERSHIP.

### **126. RECREATION AREA IN-LIEU FEE CALCULATION**

THE RECREATION AREA IN-LIEU FEE SHALL BE DETERMINED BY THE TOWN, WITH A WRITTEN APPRAISAL REPORT PREPARED BY AN APPRAISER ACCEPTABLE TO THE TOWN. FOR THE PURPOSES OF THE CHAPTER, THE DETERMINATION OF THE RECREATION AREA IN-LIEU FEE, SHALL CONSIDER, BUT NOT NECESSARILY BE LIMITED TO, THE FOLLOWING:

- A. APPROVAL OF AND CONDITIONS OF THE PRELIMINARY PLAT
- B. THE GENERAL PLAN
- C. CONDITIONAL ZONING
- D. PROPERTY LOCATION
- E. OFF-SITE IMPROVEMENTS FACILITATING USE OF THE PROPERTY
- F. SITE CHARACTERISTICS OF THE PROPERTY
- G. THE FAIR MARKET VALUE SHALL BE BASED ON THE IMPROVED VALUE OF THE LAND, INCLUDING STRUCTURES AND FACILITIES REQUIRED BY SECTION 26.5 OF THE ORO VALLEY ZONING CODE REVISED, DESIGN AND CONSTRUCTION COSTS AND HAVING THE APPLICABLE INFRASTRUCTURE (ROADWAYS, DRAINAGE, WATER, ELECTRIC, TELEPHONE AND SEWER) INSTALLED TO THE PARK AREA(S).