

VOLUME NO. 37

OPINION NO. 38

PARKS AND PLAYGROUNDS - Subdivisions, computation of area to be dedicated; SUBDIVISION - Dedication of lands for parks and playgrounds, computation of area to be dedicated; REVISED CODES OF MONTANA, 1947 - Section 11-3864.

HELD: The phrase "exclusive of all other dedications" in section 11-3864(1), R.C.M. 1947, includes only dedications for purposes other than public parks and playgrounds.

27 June 1977

Norbert F. Donahue, Esq.  
Kalispell City Attorney  
P.O. Box 899  
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Dear Mr. Donahue:

You have requested my opinion on the following question:

Do the words "exclusive of all other dedications" in section 11-3864(1), R.C.M. 1947, include the land actually dedicated for a park in a subdivision or does the term apply only to lands dedicated for streets or some other public purpose?

Section 11-3864 governs the dedication of lands in subdivisions to parks and playgrounds. It requires that a plat of a residential subdivision show the one-ninth of the "combined area of lots" of five acres or less, and one-twelfth of the area of all other lots be dedicated to the public for parks and playgrounds. The statute specifically excludes "all other dedications" from the acreage base used to compute the required area of park land. Since section 11-3864 is concerned with the dedication of land to parks and playgrounds, the phrase "all other dedications" refers to dedications for purposes other than parks and playgrounds. Therefore, if there were a ten-acre subdivision to which the one-ninth dedication requirement was applicable, and one acre was dedicated to streets, alleys and other non-park uses, one-ninth of the remaining nine acres, or one acre, must be dedicated to the public for parks and playgrounds.

THEREFORE, IT IS MY OPINION:

The phrase "exclusive of all other dedications" in section 11-3864(1), R.C.M. 1947, includes only dedications for purposes other than public parks and playgrounds.

Very truly yours,

MIKE GREELY  
Attorney General