

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-1 AND ORDINANCE NO. 20070621-027 RELATING TO PARKLAND DEDICATION AND ASSOCIATED PARKLAND FEES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The City Council makes the following findings:

- A. Core principles of the *Imagine Austin Comprehensive Plan* envision the City of Austin as a healthy community, with ample recreational opportunities and open space integrated into a compact and connected city.
- B. Since 1985, the City of Austin has required new development to dedicate parkland or pay a fee in-lieu of dedication consistent with well-established case law recognizing municipal authority to require parkland dedication.
- C. With the adoption of Resolution No. 20141211-219, the City Council initiated amendments to update the City of Austin's parkland dedication to better achieve the goals of *Imagine Austin* and better align the City's parkland requirements with those of peer cities.
- D. The current fee in-lieu of parkland dedication in Austin has not changed since 2007 and is among the lowest in the state and the country.
- E. The City's Parkland Dedication Fee Methodology Report ("Report") issued on November 19, 2014, concluded that the existing parkland dedication fee does not cover costs for acquiring and developing parkland and that the current formula for determining the amount of land required to be dedicated is insufficient to maintain the current quality of life.
- F. Professor John L Crompton, a Texas expert on Parkland Dedication ordinances, advised the Parks and Recreation Department that a fair parkland dedication fee should maintain existing residents' level of park service and be based on a per-person assessment method.
- G. The amendments adopted by this ordinance reflect the findings in the Report, as well as the advice of Professor Crompton, and will ensure that new growth and development contribute its fair share towards maintaining the City's park system.

1 **PART 2.** City Code Chapter 25-1, Article 14 (*Parkland Dedication*) is amended to read:

2 **ARTICLE 14. - PARKLAND DEDICATION.**

3 **§ 25-1-601 GENERAL PROVISIONS [~~APPLICABILITY~~].**

4 (A) The City of Austin has determined that recreational areas in the form of public
5 parks are necessary for the well-being of residents. The City has further
6 determined that the approval of new residential development is reasonably
7 related to the need for additional parkland and park amenities to serve new
8 development. The requirements of this article establish a reasonable method for
9 determining parkland dedication, or the payment of a fee in-lieu of dedication,
10 that is directly related to the need for parkland and facilities necessitated by new
11 development.

12 (B) Except as otherwise provided in this section [Subsections (B) and (C)], the
13 parkland dedication requirements of this article apply to:

- 14 (1) a residential subdivision [subdivisions] within the planning jurisdiction;
15 (2) a site plan [plans] within the zoning jurisdiction that includes residential
16 units [with three or more dwelling units]; and
17 (3) a residential building permit [permits], as provided under Section 25-1-
18 608 [25-1-606] (*Dedication of Land or Payment In-Lieu at Building*
19 Permit).

20 ~~[(B) This article does not apply in the portion of the City's extraterritorial~~
21 ~~jurisdiction that is within Travis County. Parkland dedication for that area is~~
22 ~~governed by Title 30 (*Austin/Travis County Subdivision Regulations*).]~~

23 (C) The following are exempt from the requirements of this article:

- 24 (1) ~~[a plat with not more than four lots designated for a single-family~~
25 ~~residential use that may be approved without a preliminary plan;~~
26 (2) ~~a resubdivision of land that does not increase the number of dwelling~~
27 ~~units or lots by more than three;~~
28 (3) ~~a subdivision for which a preliminary plan was approved after June 30,~~
29 ~~1984 and before July 8, 1985;~~
30 (4) ~~a subdivision or site plan within a municipal utility district that has a~~
31 ~~consent agreement and land use plan approved by the City that provides~~
32 ~~for the dedication of parkland or recreational facilities or the payment of~~
33 ~~fees instead of dedication of the parkland or facilities; and~~

1 ~~(5)~~ a subdivision or site plan for which parkland was previously dedicated or
2 payment made under this title, except for the dwelling units or lots that
3 exceed the number for which dedication or payment was made[-];

4 (2) development within the City’s extraterritorial jurisdiction that is within
5 Travis County and governed by Title 30 (Austin/Travis County
6 Subdivision Regulations); and

7 (3) affordable dwelling units that are certified under the S.M.A.R.T. Housing
8 Policy approved by the city council.

9 (D) For purposes of this article, the term “director” means the director of the Parks
10 and Recreation Department.

11
12 **§ 25-1-602 DEDICATION OF PARKLAND [REQUIRED].**

13 (A) Except where payment of a fee in-lieu of dedication is allowed under Section
14 25-1-605 (Alternatives to Parkland Dedication), a [A-subdivider] subdivision or
15 site plan applicant shall provide for the parkland needs of the residents by the
16 dedication of suitable land for park and recreational purposes under this article.

17 (B) For a subdivision, the area to be dedicated must be shown on the preliminary
18 plan and ~~[the]~~ final plat as “Parkland Dedicated to the City of Austin [and
19 included in the dedication statement].” The subdivider shall dedicate to the
20 City all parkland required by this article when a plat is approved.

21 (C) For a site plan, the area to be dedicated must be shown on the site plan as
22 “Parkland Dedicated to the City of Austin” and in a deed to the City. The
23 applicant shall dedicate the parkland required by this article to the City by deed
24 [all parkland required by this article] before the site plan is approved, except
25 that dedication may be deferred until issuance of a certificate of occupancy if
26 construction of amenities is authorized under Section 25-1-605 (Fee In-Lieu of
27 Parkland Dedication).

28 (D) For a building permit that is subject to 25-1-608 [25-1-606] (Dedication of
29 Land or Payment In-Lieu at Building Permit), the area to be dedicated must be
30 shown in a deed to the City. The applicant shall dedicate to the City all parkland
31 required by this article before a building permit is issued.

32 (E) The amount of parkland required to be dedicated to the City is ~~[five]~~ 9.4 acres
33 for every 1,000 residents, as determined by the following formula:

$$\frac{9.4 \text{ [5]} \times (\text{Number of Units})}{\text{x (Residents Per Unit)}} = \text{Acres of parkland}$$

1000

1 (F) In calculating the amount of parkland to be dedicated under this section, the
2 number of residents in each dwelling unit is based on density as follows:

<u>Density Classification</u> [Dwelling Units Per Acre]	Residents In Each Dwelling Unit
<i>Low Density</i> : Not more than 6	2.8
<i>Medium Density</i> : More than 6 and not more than 12	2.2
<i>High Density</i> : More than 12	1.7

3
4 (G) If the density of a development is not known:

- 5 (1) the density is assumed to be the highest permitted in the zoning district,
6 or if the property is not zoned, 24 dwelling units per acre; or
- 7 (2) for a residential subdivision within the extraterritorial jurisdiction, the
8 applicant [~~developer~~] may reduce the assumed density by [~~restricting~~
9 ~~density in a restrictive covenant~~] agreeing, in a manner that is enforceable
10 by the City and approved by the city attorney, that any subsequent
11 increases in density may require additional dedication of parkland under
12 this section or payment of a fee in-lieu of dedication under Section 25-1-
13 605 (Fee In-Lieu of Parkland Dedication).

14 (H) The subdivision [~~subdivider~~] or site plan applicant shall pay all costs of
15 transferring the parkland to the City, including the costs of:

- 16 (1) an environmental site assessment without any further recommendations
17 for clean-up, certified to the City not earlier than the 120th day before the
18 closing date;
- 19 (2) a Category 1(a) land title survey, certified to the City and the title
20 company not earlier than the 120th day before the closing date;
- 21 (3) a title commitment with copies of all Schedule B and C documents, and
22 an owner's title policy;
- 23 (4) a fee simple deed;
- 24 (5) taxes prorated to the closing date;
- 25 (6) recording fees; and
- 26 (7) charges or fees collected by the title company.

27 (G) Development within a Planned Unit Development (PUD) zoning district may be
28 subject to additional parkland requirements and may be entitled to count

1 dedicated parkland towards meeting open space requirements under Chapter 25-
2 2, Article 2, Division 5 (Planned Unit Developments).
3

4 **§ 25-1-603 STANDARDS FOR DEDICATED PARKLAND.**

5 (A) In addition to the requirements of this article, land [~~Land~~] to be dedicated as
6 parkland must meet the requirements of this subsection[:].

7 (1) Parkland must be easily accessible to the public and open to public view
8 so as to benefit area residents, enhance the visual character of the City,
9 protect public safety, and minimize conflicts with adjacent land uses.

10 (2) On-street and off-street connections between residential neighborhoods
11 shall be provided, wherever possible, to provide reasonable access to
12 parks and open space areas.

13 (3) In addition to the requirements of this subsection, parkland must comply
14 with the standards in the Comprehensive Plan, the Park and Recreation
15 [~~Action~~] Long-Range Plan, the Environmental Criteria Manual
16 [~~Administrative Criteria Manual~~], and the Parkland Dedication Operating
17 Procedures [~~this section~~].

18 (B) The director [~~of the Parks and Recreation Department~~] shall determine whether
19 land offered for dedication complies with the standards for dedication under
20 Subsection (A) of this section and may require a subdivision or site plan
21 applicant to provide information deemed necessary to determine compliance.

22 (C) Fifty percent of acreage in the 100 year floodplain that is dedicated as parkland
23 may be credited toward fulfilling the requirements of this article if any [~~the~~]
24 adjoining land within the 25 year floodplain[~~, if any,~~] is also dedicated as
25 parkland. The land within the 25 year floodplain may not be credited toward
26 fulfilling the requirements of this article.

27 (D) Land identified on the [~~Critical Areas~~] Deficient Parkland Area Map maintained
28 by the Parks and Recreation [~~Watershed Protection and Development Review~~]
29 Department that does not otherwise comply with the standards for parkland
30 dedication may be accepted as dedicated parkland if the director [~~of the Parks~~
31 ~~and Recreation Department~~] determines that the land will provide recreational
32 or educational opportunities for the surrounding community. In this event, 50
33 percent of the acreage may be credited toward fulfilling the requirements of this
34 article.
35

36 **§ 25-1-604 PRIVATE PARKLAND.**

- 1 (A) The director [~~of the Parks and Recreation Department~~] may allow up to a 50
2 percent credit toward fulfilling the requirements of this article for privately
3 owned and maintained park and recreational facilities, or recreational
4 easements, that are for use by the public.
- 5 (B) The director [~~of the Parks and Recreation Department~~] may allow up to a 100
6 percent credit toward fulfilling the requirements of this article for private
7 parkland in a subdivision or site plan located outside the city limits, if:
- 8 (1) the director [~~of the Parks and Recreation Department~~] determines that the
9 private parkland meets City parkland standards; and
- 10 (2) the land owner agrees to dedicate the private parkland to the City when
11 the City annexes the land for all purposes.
- 12 (C) If private parkland includes construction of recreational amenities, the applicant
13 must post fiscal surety in an amount equal to the fee in-lieu provided for under
14 Section 25-1-605 (*Alternatives to Parkland Dedication*) and the development
15 fee required under Section 25-1-608 (*Parkland Development Fee*). The fiscal
16 surety must be posted:
- 17 (1) before final plat approval; or
- 18 (2) before site plan release, for any portion of the subdivision that will
19 require a site plan.
- 20 (D) [~~Private parkland excludes yards~~] Yards, setback areas, and private personal
21 open spaces required by this title may not be counted as private parkland under
22 this section, except for a required setback or yard that includes a public trail.

23
24 **§ 25-1-605 FEE IN-LIEU OF PARKLAND DEDICATION [~~PAYMENT INSTEAD~~**
25 **~~OF LAND~~].**

- 26 (A) In lieu of the dedication of land required by Section 25-1-602 (*Dedication of*
27 *Parkland*), the [The] director [~~of the Parks and Recreation Department~~] may
28 require ~~or allow~~ a [~~subdivider~~] subdivision or site plan applicant to[~~;~~] deposit
29 with the City a [~~cash payment or fiscal security instead~~] fee in-lieu of [~~the~~]
30 parkland dedication [~~of parkland if:~~
- 31 [(1) ~~less than six acres is required to be dedicated; or~~
- 32 (2) ~~the land available for dedication does not comply with the standards for~~
33 ~~dedication~~].
- 34 (B) [~~A subdivider must make the deposit before the subdivision may be approved,~~
35 ~~except that for the portion, if any, of the subdivision that requires a site plan, the~~
36 ~~subdivider may defer the deposit until after a site plan is filed.] The director~~

1 shall determine whether to require or allow payment of a fee in-lieu under this
2 section based on the feasibility of dedicating parkland and whether the land
3 available for dedication, if any, would help to maintain or enhance the City's
4 park system. In making this determination, the director shall consider whether
5 the proposed subdivision or site plan:

6 (1) is located within the Deficient Park Area Map;

7 (2) is adjacent to existing parkland; and

8 (3) has sufficient acreage to meet the standards for dedicated parkland under
9 the Parkland Dedication Operating Procedures.

10 (C) [A site plan applicant must make the deposit before the site plan may be
11 approved.

12 (D)] The amount of the fee in-lieu of parkland dedication is determined according to
13 the density classification established by Section 25-1-602(F) (*Dedication of*
14 *Parkland*) in the manner prescribed by this subsection.

15 (1) Fee In-Lieu of Dedication:

<u>Density Classification</u>	<u>Fee In-Lieu Amount</u>
<u>Low Density</u>	<u>2.8 x Land Cost Per Person</u>
<u>Medium Density</u>	<u>2.2 x Land Cost Per Person</u>
<u>High Density</u>	<u>1.7 x Land Cost Per Person</u>

16 (2) For purposes of determining the fee in-lieu under Subsection (C)(1):

17 Land Cost Per Person = Parkland Cost Factor

18 Parkland Level-of Service

19 where:

20 (a) "Parkland Cost Factor" is an amount approved by the city council
21 concurrent with adoption of the annual fee ordinance, based on the
22 average purchase price to the City for acquiring an acre of
23 parkland as determined in accordance with the Parkland
24 Dedication Operating Procedures; and

25 (b) "Parkland Level-of-Service" is:

1 City Population

2
3 Net Park Acreage

4 where “City Population” is determined by the city demographer
5 and “Net Park Acreage” is determined by the director in accordance with
6 the Parkland Dedication Operating Procedures, prior to adoption of the
7 annual fee ordinance by the city council.

8 ~~[deposit is determined by multiplying the number of dwelling units by the parkland~~
9 ~~cost for each dwelling unit, excluding the affordable dwelling units. The~~
10 ~~determination is made on the date of the deposit using the most recent parkland cost~~
11 ~~for each dwelling unit. In this subsection:~~

12 (1) ~~The number of dwelling units is:~~

13 (a) ~~for a deposit made at the time of subdivision, calculated in~~
14 ~~accordance with Section 25-1-602 (Dedication Of Parkland~~
15 ~~Required); or~~

16 (b) ~~for a deposit made at the time of site plan, the number shown on~~
17 ~~the site plan.~~

18 (2) ~~The parkland cost for each dwelling unit is:~~

19 (a) ~~based on a report by the city manager that analyzes of the costs of~~
20 ~~acquiring and developing parkland and determines the~~
21 ~~proportionate share of those costs attributable to new residential~~
22 ~~development;~~

23 (b) ~~approved by council; and~~

24 (c) ~~periodically reviewed by the city manager and council.~~

25 (3) ~~Affordable dwelling unit means a dwelling unit that is certified by the~~
26 ~~director of the Neighborhood Housing and Community Development~~
27 ~~Department as being reasonably priced under the S.M.A.R.T. Housing~~
28 ~~Program standards adopted by council resolution for rental or purchase~~
29 ~~by a household earning not more than 80 percent of the median family~~
30 ~~income for the Austin statistical metropolitan area.~~

31 (E) ~~A deposit must be placed in the City's Neighborhood Park and Recreation~~
32 ~~Improvement Fund. The deposit must be used for the acquisition or~~
33 ~~improvement of neighborhood parks that will benefit the residents of the~~
34 ~~subdivision or site plan and that are located in the service area defined by the~~
35 ~~Parks and Recreation Department.~~

1 ~~(F) The City shall expend a deposit within five years from the date it is received.~~
2 ~~This period is extended by five years if, at the expiration of the initial five year~~
3 ~~period, less than 50 percent of the residential units in the subdivision or on the~~
4 ~~site plan have been constructed.~~

5 ~~(G) If the City does not expend a deposit by the deadline described in Subsection~~
6 ~~(F), and the actual number of residential units constructed is less than the~~
7 ~~number assumed at the time the deposit was calculated, the owner may request~~
8 ~~a refund. The request must be in writing and filed with the director of the Parks~~
9 ~~and Recreation Department not later than 180 days after the expiration of the~~
10 ~~time period described in Subsection (F). A refund is calculated by multiplying~~
11 ~~the percentage of the reduction in the number of residential units times the~~
12 ~~amount of the deposit. A refund may not exceed the unexpended amount of a~~
13 ~~deposit.]~~

14
15 **§ 25-1-606 PARKLAND DEVELOPMENT FEE.**

16 (A) Except as provided in Subsection (C), an applicant must pay a parkland
17 development fee as a condition to subdivision or site plan approval in order to
18 ensure that land is developed with recreational amenities sufficient for park use.

19 (B) The amount of the development fee is determined according to the density
20 classification established by Section 25-1-602(F) (*Dedication of Parkland*) in
21 the manner prescribed by this subsection.

22 (1) Parkland Development Fee:

<u>Density Classification</u>	<u>Development Fee Amount</u>
<u>Low Density</u>	<u>2.8 x Park Development Cost Per Person</u>
<u>Medium Density</u>	<u>2.2 x Park Development Cost Per Person</u>
<u>High Density</u>	<u>1.7 x Park Development Cost Per Person</u>

23
24 (2) For purposes of determining the development fee under Subsection
25 (B)(1):

26 Park Development Cost = Park Development Cost Factor

27
28 Park Facilities Level-of Service

1 where:

2 (a) “Park Development Cost Factor” is an amount approved by the
3 city council, concurrent with adoption of the annual fee ordinance,
4 based on the average cost of developing an acre of parkland up to
5 the standards of a neighborhood park as determined in accordance
6 with the Parkland Dedication Operating Procedures; and

7 (b) “Park Facilities Level-of-Service” is:

8 City Population

9 _____

10 Number of Developed Parks

11 where “City Population” is determined by the city demographer
12 and “Number of Developed Parks” is the total acreage of developed
13 parkland, other than metro, district, and golf-course acreage, as
14 determined by the director prior to adoption of the annual fee ordinance
15 by the city council.

16 (C) The director may allow an applicant to construct recreational amenities on
17 parkland in-lieu of paying the development fee required by this section. In order
18 to utilize this option, the applicant must:

- 19 (1) post fiscal surety in an amount equal to the development fee;
20 (2) if a dedication of land is required, construct recreational amenities prior
21 the dedication in a manner consistent with the Parkland Dedication
22 Operating Procedures; and
23 (3) document the required amenities concurrent with subdivision or site plan
24 approval, in a manner consistent with the Parkland Dedication Operating
25 Procedures.

26
27
28 **§ 25-1-607 FEE PAYMENT AND EXPENDITURE.**

29 (A) Payment of a fee required under Section 25-1-605 (*Fee In-Lieu of Parkland*
30 *Dedication*) or Section 25-1-606 (*Parkland Development Fee*) must be paid as
31 required by this subsection.

- 32 (1) If a fee in-lieu of dedication or a parkland development fee is required as
33 a condition to subdivision approval, the applicant must deposit the fee
34 with the City before final plat approval. The applicant may defer
35 payment of a fee until site plan approval unless development proposed

1 within the subdivision is exempt from the requirement to submit a site
2 plan under Section 25-5-2 (*Site Plan Exemptions*).

3 (2) If a fee in-lieu of dedication or a parkland development fee is required as
4 a condition to site plan approval, the applicant must deposit the fee with
5 the City before the site plan may be approved.

6 (B) In administering fees collected under this article, the director shall:

7 (1) place fees paid under Section 25-1-605 (*Fee In-Lieu of Parkland*
8 *Dedication*) and Section 25-1-606 (*Parkland Development Fee*) into
9 separate funds;

10 (2) limit the use of fees paid under Section 25-1-605 (*Fee In-Lieu of*
11 *Parkland Dedication*) to the acquisition of parkland that will benefit
12 residents of the development for which the fees are assessed and is
13 located within a service area designated by the director under the
14 Parkland Dedication Operating Procedures; and

15 (3) limit the use of fees paid under Section 25-1-606 (*Parkland Development*
16 *Fees*) to the development of recreational amenities that will benefit
17 residents of the development for which the fees are assessed and is
18 located with a service area designated by the director under the Parkland
19 Dedication Operating Procedures.

20 (C) The City shall expend a fee collected under this article within five years from
21 the date payment is received. This period is extended by five years if, at the
22 end of the initial five-year period, less than 50 percent of the residential units
23 within a subdivision or site plan have been constructed.

24 (D) If the City does not expend a fee payment by the deadline required in
25 Subsection (C), the subdivision or site plan applicant who paid the fee may
26 request a refund under the requirements of this subsection.

27 (1) The refund request must be made in writing and filed with the Parks and
28 Recreation Department not later than 180 days after the expiration of the
29 deadline under Subsection (C).

30 (2) If the refund request is timely filed, the director shall refund the amount
31 of unspent fees that were collected under this article in connection with
32 approval of the subdivision or site plan.

33
34 **§ 25-1-608 [~~25-1-606~~] DEDICATION OF LAND OR PAYMENT IN-LIEU AT**
35 **BUILDING PERMIT.**

1 (A) Dedication of parkland or payment in lieu of dedication, as determined by the
2 director [~~of the Parks and Recreation Department~~], is required as a condition to
3 obtaining a building permit for residential development located within a
4 subdivision that:

5 (1) at the time of approval, was deemed to be exempt from a requirement to
6 dedicate parkland or pay a fee in-lieu of dedication based on the
7 assumption that development within the subdivision would be limited to
8 non-residential uses; and

9 (2) has not subsequently developed with a use for which parkland was
10 dedicated or a fee in-lieu of dedication was paid.

11 (B) The amount of a fee in-lieu of parkland dedication under this section shall be
12 calculated in accordance with Section 25-1-605 (*Fee In-Lieu of Parkland*
13 *Dedication*) [~~(Payment Instead of Land)~~].
14

15 **§ 25-1-607 - SUBMITTAL REQUIREMENTS.**

16 ~~(A) The director of the Parks and Recreation Department may request that the~~
17 ~~subdivider or site plan applicant provide information relating to proposed~~
18 ~~parkland to determine whether the proposed parkland complies with this article.~~

19 ~~(B) A subdivider or site plan applicant shall provide the information requested~~
20 ~~under this section.]~~
21

22 **§ 25-1-609 ADMINISTRATIVE AUTHORITY.**

23 (A) The director is authorized to adopt administrative rules and take other actions
24 that are necessary to implement this article.

25 (B) The director shall, at a minimum, adopt:

26 (1) a Deficient Park Area Map illustrating shortages in parkland; and

27 (2) Parkland Dedication Operating Procedures establishing:

28 (a) boundaries for service areas required by Section 25-1-607 (*Fee*
29 *Payment and Expenditure*) for use of a fee in-lieu of parkland
30 dedication and parkland development fee;

31 (b) general standards for dedicated parkland under Section 25-1-603
32 (*Standards for Dedicated Parkland*);

33 (c) methodology for determining:

34 (i) parkland cost factor and park level-of-service under Section
35 25-1-605 (*Fee In-Lieu of Parkland Dedication*); and

1 (ii) park development cost factor and facilities level-of-service
2 under Section 25-1-606 (*Parkland Development Fee*); and

3 (d) other provisions deemed necessary for implementing this article.
4

5 **PART 3.** Part 4 of Ordinance No. 20070621-027 is repealed.

6
7 **PART 4.** This ordinance takes effect on January 1, 2016.

8
9 **PASSED AND APPROVED**

10
11 _____, 2015

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§
§

12
13 _____
14 Steve Adler
15 Mayor

16
17 **APPROVED:** _____
18 Anne L. Morgan
19 Interim City Attorney

20 **ATTEST:** _____
21 Jannette S. Goodall
22 City Clerk
23