

Article 23-4B: Parkland Dedication

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Division 23-4B-1: General Provisions

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23-4B-1010 Purpose and Applicability

(A) Purpose

- (1) The City of Austin has determined that recreational areas in the form of public parks are necessary for the well-being of the City's residents.
- (2) The City has further determined that the approval of new residential development creates a need for additional parkland and park amenities to serve new residents and maintain existing levels of service.
- (3) To address the impacts of new development on the City's park system, this article:
 - (a) Requires residential development to dedicate parkland or pay a fee in-lieu of land dedication as a condition to development approval; and
 - (b) Establishes a fair method for determining the amount that new development may reasonably be required to contribute, based on its direct impacts to the City's park system and the need for high quality parkland to serve the City's residents.

(B) Applicability

- (1) The requirements of this article apply to:
 - (a) A residential subdivision in the planning jurisdiction;
 - (b) A site plan in the zoning jurisdiction that includes residential units or a hotel-motel use; and
 - (c) A residential building permit, as provided under Section 23-4B-2040 (Parkland Dedication or Fee In-Lieu at Building Permit).
- (2) The following are exempt from the requirements of this article:
 - (a) A subdivision or site plan for which parkland was previously dedicated or payment made under this Title, except for the dwelling units or lots that exceed the number for which dedication or payment was made;
 - (b) Development within the City's extraterritorial jurisdiction that is within Travis County and governed by Title 30 (Austin/Travis County Subdivision Regulations); and
 - (c) Affordable dwelling units as described in Article 23-4E (Affordable Housing).

23-4B-1020 Review Authority

- (A) Authority and responsibility for implementing this chapter is delegated to the Parks Director, which is referred to in this chapter as “the director.” However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.
- (B) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).
- (C) The director is authorized to take actions that are necessary to implement this article by administrative rule, which at a minimum, shall include the following:
 - (1) A Deficient Park Area Map, illustrating shortages in parkland; and
 - (2) Parkland Dedication Operating Procedures establishing:
 - (a) Boundaries for service areas required by Section 23-4B-3030 (Fee Payment and Expenditure) for use of a fee in-lieu of parkland dedication and parkland development fee;
 - (b) General standards for dedicated parkland under Section 23-4B-2020 (Standards for Dedication of Parkland);
 - (c) Procedures for obtaining an assessment under Section 23-4B-1030 (Parkland Assessment); and
 - (d) Methodology for determining:
 - (i) Parkland cost factor and park level-of-service under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication); and
 - (ii) Park development cost factor and facilities level-of-service under Section 23-4B-3020 (Parkland Development Fee); and
 - (iii) Other provisions deemed necessary for implementing this article.

23-4B-1030 Parkland Assessment

- (A) **Purpose and Applicability.**
 - (1) This section establishes a process by which an applicant may, prior to submitting a development application, obtain a determination on how the requirements of this article apply to proposed development.
 - (2) An assessment under this section may be requested in advance of submitting a site plan or subdivision application and is subject to the requirements of Section 23-2C-1060 (Project Assessment).
- (B) **Review Procedure.**
 - (1) To request a parkland assessment under this section, an applicant must provide information required by the director to assess the impact of proposed development on the park system and the suitability of land for dedication. The information must, at a minimum, include the number of residential units proposed and the size and location of the site.

- (2) After receiving a request for parkland assessment, the director shall issue an assessment in accordance with timelines established under Section 23-2C-1010 (Application Requirements and Procedures).

(C) Contents of Parkland Assessment.

- (1) A parkland assessment must:
 - (a) State whether the applicant is required to:
 - (i) Dedicate parkland and, if so, the approximate amount and general location of the dedication;
 - (ii) Pay a fee in-lieu of dedication; or
 - (iii) Provide a combination of fee in-lieu and land dedication; and
 - (b) Describe:
 - (i) The assumptions on which the assessment is based, including the number of residential units and amount of land proposed to be developed; and
 - (ii) The reasons for requiring dedication of land or payment of a fee in-lieu based on the criteria in Section 23-3B-3010 (Fee In-Lieu of Parkland Dedication).

(D) Effect of Parkland Assessment. A parkland assessment under this section is valid for one year from the date the assessment is issued and shall guide decisions by the director on land dedications or fee in-lieu required for proposed development, provided that:

- (1) The number of residential units does not vary by more than 10 percent from the number of units on which the parkland assessment was based; and
- (2) The proposed development is consistent with other assumptions on which the parkland assessment was based.

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23-4B-2010 Dedication of Parkland

- (A) **Dedication Required.** An applicant for subdivision or site plan approval must provide for the parkland needs of the residents by the dedication of suitable land for park and recreational purposes under this article or by payment of a fee in-lieu of dedication under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication).
- (B) **Subdivision Dedication.**
 - (1) For dedication made at subdivision, the area to be dedicated must be conveyed by deed to the City and may be shown on the preliminary plan and final plat as “Parkland Dedicated to the City of Austin.”
 - (2) The subdivider shall dedicate to the City all parkland required by this article when a plat is approved, except that the director may defer dedication of parkland to site plan approval if development within the subdivision will require a site plan under Division 23-6B-2 (Site Plan Review).
- (C) **Site Plan Dedication.**
 - (1) For dedication made at site plan the area to be dedicated must be conveyed by deed to the City and shown on the site plan as “Parkland Dedicated to the City of Austin.” The applicant shall dedicate the parkland required by this article to the City by deed before the site plan is released, except that the director may allow dedication to be deferred until issuance of a certificate of occupancy if the applicant posts fiscal security to ensure compliance with the dedication requirement.
 - (2) In negotiating a deed under this section, the director may require that a reasonable portion of the total impervious cover permitted on the site be allocated to the dedicated parkland to allow for construction of parkland amenities without unduly impacting development of the proposed site plan.
- (D) **Building Permits.** For a building permit that is subject to Section 23-4B-2040 (Parkland Dedication or Fee In-Lieu at Building Permit), the area to be dedicated must be shown in a deed to the City. The applicant shall dedicate to the City all parkland required by this article before a building permit is issued.
- (E) **Criteria for Land Dedication.**
 - (1) **Level of Service.** Except as provided under Subsection (H), the amount of parkland required to be dedicated to the City is 9.4 acres for every 1,000 residents, as determined by the following formula:
$$(9.4 \times \text{Number of Units} \times \text{Residents per Unit}) / 1,000 = \text{Acres of Parkland}$$

(2) Densities.

(a) In calculating the amount of parkland to be dedicated under this section, the number of residents in each dwelling unit is based on the following densities:

Table 23-4B-2010(A): Calculation of Parkland	
Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 8 units per acre	2.8
Medium Density: More than 8 and not more than 15 units per acre	2.2
High Density: More than 15 units per acre	1.7
Hotel-Motel Density: Total number of rooms	1.7 × Annual Occupancy Rate

(b) If the density of a development is not known:

- (i) The density is assumed to be the highest permitted in the zone, or if the property is not zoned, 36 dwelling units per acre; or
- (ii) For a residential subdivision within the extraterritorial jurisdiction, the applicant may reduce the assumed density by agreeing, in a manner that is enforceable by the City and approved by the city attorney, that any subsequent increases in density may require additional dedication of parkland under this section or payment of a fee in- lieu of dedication under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication).

(F) **Dedication Costs.** An applicant must pay all costs of transferring the parkland to the City, including the costs of:

- (1) An environmental site assessment without any further recommendations for clean-up, certified to the city not earlier than the 120th day before the closing date;
- (2) A Category 1(a) land title survey, certified to the city and the title company not earlier than the 120th calendar day before the closing date;
- (3) A title commitment with copies of all Schedule B and C documents, and an owner’s Title policy;
- (4) A fee simple deed;
- (5) Taxes prorated to the closing date;
- (6) Recording fees; and
- (7) Charges or fees collected by the title company.

(G) **PUD Parkland Requirements.** Development within a Planned Unit Development (PUD) Zone may, if required by the ordinance adopting the PUD, be subject to additional parkland requirements and may be entitled to count dedicated parkland towards meeting open space requirements under Section 23-3C-9130 (Planned Unit Development Zone).

(H) **Fifteen Percent Urban Core Cap.** The amount of parkland required to be dedicated within the Parkland Dedication Urban Core may not exceed 15 percent of gross site area for the development required to provide the dedication, except upon consent of the applicant or as authorized under this subsection.

- (1) The director may request that the Land Use Commission approve dedication in excess of the 15 percent cap, up to the amount required under Subsection (E), if doing so is necessary to address a critical shortage of parkland for an area identified in the Deficient Parkland Area Map or provide connectivity with existing or planned parks or recreational amenities.
- (2) Before the Land Use Commission considers a request under this subsection for approval, the director shall present the request to the Parks Board for a recommendation.
- (3) In considering a request from the director under this subsection, the Land Use Commission may:
 - (a) Deny the director's request and limit the required dedication to no more than 15 percent of gross site area; or
 - (b) Require additional parkland dedication beyond the 15 percent cap, up to the lesser of either the amount required under Subsection (E) or the minimum amount the Land Use Commission finds to be necessary based on the criteria in Subsection (H)(1) and the Parkland Dedication Operating Procedures.
- (4) If an applicant dedicates less than the amount of land required for dedication under Subsection (E) due to the 15 percent cap imposed by this subsection, the director shall require payment of a fee in-lieu of dedication under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication) for the remaining undedicated land.

23-4B-2020 Standards for Parkland Dedication

- (A) In addition to the requirements of this article, land to be dedicated as parkland must meet the requirements of this subsection.
 - (1) Parkland must be easily accessible to the public and open to public view so as to benefit area residents, enhance the visual character of the City, protect public safety, and minimize conflicts with adjacent land uses.
 - (2) On-street and off-street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas.
 - (3) Parkland must comply with the standards in the Comprehensive Plan, the Park and Recreation Long-Range Plan, the Environmental Criteria Manual, and the Parkland Dedication Operating Procedures.
- (B) The director shall determine whether land offered for dedication complies with the standards for dedication under Subsection (A) and may require a subdivision or site plan applicant to provide information deemed necessary to determine compliance.
- (C) Except as otherwise required under the Parkland Dedication Operating Procedures, 50 percent of acreage in the 100 year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this article if any adjoining land within the 25 year floodplain is also dedicated as parkland. The land within the 25-year floodplain may not be credited toward fulfilling the requirements of this article.

- (D) Land identified on the deficient parkland area map that does not otherwise comply with the standards for parkland dedication may be accepted as dedicated parkland if the director determines that the land will provide recreational or educational opportunities for the surrounding community. Fifty percent of the acreage of land accepted for dedication under this subsection may be credited toward fulfilling parkland dedication requirements.

23-4B-2030 Private Parkland

- (A) The director may allow up to a 100 percent credit toward fulfilling the requirements of:
- (1) Section 23-4B-2010 (Dedication of Parkland) for privately owned and maintained parkland or recreational easements that are available for use by the public and meet the standards of the Parkland Dedication Operating Procedures; and
 - (2) Section 23-4B-3020 (Parkland Development Fee) for recreational facilities that are located on privately owned and maintained parkland and available for use by the public.
- (B) For a subdivision or site plan located outside the City limits, the director may allow up to a 100 percent credit toward fulfilling the requirements of this article for private parkland if:
- (1) The director determines that the private parkland meets City parkland standards; and
 - (2) The land owner agrees to dedicate the private parkland to the City if the City annexes the land for all purposes.
- (C) If private parkland will include construction of recreational amenities, the applicant must post fiscal surety in an amount equal to the fee in-lieu provided for under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication) and the development fee required under Section 23-4B-3020 (Parkland Development Fee). The fiscal surety must be posted before final plat approval or before site plan release, for any portion of the subdivision that will require a site plan.
- (D) Yards, setback areas, and private personal open spaces required by this Title may not be counted as private parkland under this section, except for a required setback or yard that includes a public trail.
- (E) If private parkland is allowed, a restrictive covenant granting public access must be recorded before the site plan or subdivision is approved unless:
- (1) The director allows the applicant to defer the obligation until issuance of a certificate of occupancy or approval of a site plan, whichever is applicable; and
 - (2) The applicant posts fiscal security to ensure compliance with the obligation to record the covenant.

23-4B-2040 Parkland Dedication or Fee In-Lieu at Building Permit

- (A) Dedication of parkland or payment in lieu of dedication, as determined by the director under this article, is required to obtain a building permit for residential development located within a subdivision that:
 - (1) At the time of subdivision approval, was deemed to be exempt from a requirement to dedicate parkland or pay a fee in-lieu of dedication based on the assumption that development within the subdivision would be limited to non-residential uses; and
 - (2) Has not subsequently developed with a use for which parkland was dedicated or a fee in-lieu of dedication was paid.
- (B) The amount of a fee in-lieu of parkland dedication under this section shall be calculated in accordance with Section 23-4B-2010 (Dedication of Parkland) and Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication).

23-4B-2050 Parkland Dedication Bonus

- (A) **Purpose and Applicability.**
 - (1) This section modifies site development regulations to reduce potential impacts of parkland dedication on the capacity of development to provide residential housing units.
 - (2) This section applies to development for which parkland dedication is required under this article, except for dedications made within a Planned Unit Development zone.
- (B) **Density and Floor-to-Area Ratio (FAR) Calculations.** If parkland is dedicated to the City as a condition to approval of a site plan, the following requirements of Article 23-3C (Zones) shall be calculated based on gross site area and shall include the portion of the site dedicated as parkland:
 - (1) The maximum floor-to-area ratio; and
 - (2) The maximum number of units per acre.

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Division 23-4B-3: Fees

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23-4B-3010 Fee In-Lieu of Parkland Dedication

- (A) **Fee In-Lieu Authorized.** The director may require or allow a subdivision or site plan applicant to deposit with the City a fee in-lieu of dedicating parkland under Section 23-4B-2010 (Dedication of Parkland) if:
 - (1) The director determines that payment of a fee in-lieu of dedication is justified under the criteria in Subsection (B); and
 - (2) The following additional requirements are met:
 - (a) Less than six acres is required to be dedicated under Section 23-4B-2010 (Dedication of Parkland); or
 - (b) The land available for dedication does not comply with the standards for dedication under Section 23-4B-2020 (Standards for Dedication of Parkland).

- (B) **Review Procedure and Criteria.**
 - (1) In determining whether to require dedication of land under Section 23-4B-2010 (Dedication of Parkland) or allow payment of a fee in-lieu of dedication under this section, the director shall consider whether the site:
 - (a) Is located within the deficient park area map;
 - (b) Is adjacent to existing parkland;
 - (c) Has sufficient acreage to meet the standards for dedicated parkland under the parkland dedication operating procedures;
 - (d) Is needed to address a critical need for parkland or to remedy a deficiency identified by the deficient park area map; or
 - (e) Would provide increased connectivity with existing or planned parks or recreational amenities.

- (C) **Fee Amount.** The amount of the fee in-lieu of parkland dedication is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.

Table 23-4B-3010(A): In Lieu Fee Calculation	
Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 8 units per acre	2.8 x Land Cost per Person
Medium Density: More than 8 and not more than 15 units per acre	2.2 x Land Cost per Person
High Density: More than 15 units per acre	1.7 x Land Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Land Cost per Person

- (1) For purposes of calculating “Land Cost per Person” to determine the fee in-lieu under this subsection:
 - (a) $\text{Land Cost per Person} = (\text{Parkland Cost Factor}) / (\text{Parkland Level of Service})$
 - (b) Where:
 - (i) “Parkland Cost Factor” is determined by the director based on the average purchase price to the City for acquiring an acre of parkland, excluding a metro or district park or golf course; and
 - (ii) “Parkland Level-of-Service” is:

$$\text{Parkland Level of Service} = (\text{City Population}) / (\text{Net Park Acreage})$$
 - (iii) “City Population” is determined by the City Demographer; and
 - (iv) “Net Park Acreage” is the total citywide acreage of neighborhood parks, pocket parks, and greenways, as determined by the director before adoption of the annual fee ordinance by the Council.
- (D) **Fee In-Lieu and Dedication.** If the director determines that payment of a fee in-lieu of parkland dedication is authorized under this section for only a portion of the land required to be dedicated under Section 23-4B-2010 (Dedication of Parkland), the director may allow an applicant to pay a fee in-lieu for that portion and require that the remaining land be dedicated. If an applicant dedicates parkland under Section 23-4B-2010 (Dedication of Parkland), the director may not include that acreage in calculating the fee in-lieu required by this section for any remaining land not included in the dedication.

23-4B-3020 Parkland Development Fee

- (A) **Development Fee Required.** Except as provided in Subsection (C), an applicant must pay a parkland development fee as a condition to approval of a residential subdivision or site plan in order to ensure that land is developed with recreational amenities sufficient for park use.
- (B) **Fee Amount.** The amount of the development fee is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.

Table 23-4B-3020(A): Parkland Development Fee	
Density Classification	Residents in Each Dwelling Unit
Low Density: Not more than 8 units per acre	2.8 x Park Development Cost per Person
Medium Density: More than 8 and not more than 15 units per acre	2.2 x Park Development Cost per Person
High Density: More than 15 units per acre	1.7 x Park Development Cost per Person
Hotel-Motel Density: Total number of rooms	1.7 x Annual Occupancy Rate x Park Development Cost per Person

- (1) For purposes of determining the development fee under Subsection (B)(1):
 - Park Development Cost=(Park Development Cost Factor)/(Park Facilities Level of Service)
- (2) Where:
 - (a) "Park Development Cost Factor" is determined by the director based on the average cost of developing an acre of parkland up to the standards of a neighborhood park; and
 - (b) "Park Facilities Level-of-Service" is:
 - Park Facilities Level of Service = (City Population)/(Number of Developed Parks)
 - (c) Where:
 - (i) "City Population" is determined by the City Demographer; and
 - (ii) "Number of Developed Parks" is the total number of parks developed with a recreational amenity or trail, as determined by the director prior to adoption of the annual fee ordinance by the Council.
- (C) **Construction of Amenities.** The director may allow an applicant to construct recreational amenities on public or private parkland, if applicable, in-lieu of paying the development fee required by this section. In order to utilize this option, the applicant must:
 - (1) Post fiscal surety in an amount equal to the development fee;
 - (2) If a dedication of land is required, construct recreational amenities prior to the dedication in a manner consistent with the Parkland Dedication Operating Procedures; and
 - (3) Document the required amenities concurrent with subdivision or site plan approval, in a manner consistent with the Parkland Dedication Operating Procedures.

23-4B-3030 Fee Payment and Expenditure

- (A) Payment of a fee required under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-4B-3020 (Parkland Development Fee) must be paid as required by this subsection.
 - (1) If a fee in-lieu of dedication or a parkland development fee is required as a condition to subdivision approval, the applicant must deposit the fee with the City before final

plat approval. The applicant may defer payment of a fee until site plan approval unless development proposed within the subdivision is exempt from the requirement to submit a site plan under Chapter 23-6 (Permits and Special Approvals).

- (2) If a fee in-lieu of dedication or a parkland development fee is required as a condition to site plan approval, the applicant must deposit the fee with the City before the site plan may be approved.
- (B) The director shall place fees paid under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication) or Section 23-4B-3020 (Parkland Development Fee) into separate funds and use the fees consistently with the requirements of this subsection.
- (1) Except as provided in Subsection (B)(3), the director shall use fees paid under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication) solely to acquire parkland or recreational easements that will benefit residents of the development for which the fees are assessed. These parkland or recreational easements must be located within a service area designated by the director under the Parkland Dedication Operating Procedures.
 - (2) The director shall use fees paid under Section 23-4B-3020 (Parkland Development Fee) solely to acquire and develop recreational amenities that will benefit residents of the development for which the fees are assessed and are located within a service area designated by the director under the Parkland Dedication Operating Procedures.
 - (3) The director may use fees paid under Section 23-4B-3010 (Fee In-Lieu of Parkland Dedication) consistent with the purposes described in Subsection (B)(2) if, within one year from the date the fees are appropriated for expenditure, the director determines that land which meets the requirements of Section 23-4B-2020 (Standards for Parkland Dedication) is unavailable for purchase within the service area for which the fees were assessed.
- (C) The City shall expend a fee collected under this article within five years from the date the fees are appropriated for expenditure by the director. This period is extended by five years if, at the end of the initial five-year period, less than 50 percent of the residential units within a subdivision or site plan have been constructed.
- (D) If the City does not expend a fee payment by the deadline required in Subsection (C), the subdivision or site plan applicant who paid the fee may request a refund under the requirements of this subsection.
- (1) A refund may only be requested for unbuilt units for which a fee in-lieu of dedication was paid. The refund request must be made in writing and filed with the Parks Director not later than 180 calendar days after the expiration of the deadline under Subsection (C).
 - (2) If the refund request is timely filed, the director shall:
 - (a) Refund the amount of unspent fees that were collected under this article in connection with approval of a subdivision or site plan; and
 - (b) If a site plan for which fees were assessed was subsequently revised to reduce the number of units, recalculate the amount due based on the reduced number of units and refund any fees paid in excess of that amount.