

**PROPOSED CHANGES TO ARTICLE 14 (PARKLAND DEDICATION)
ADDING COMMERCIAL PARKLAND DEDICATION REQUIREMENTS
DRAFT SUBJECT TO ADDITIONAL CHANGES
VERSION TWO**

ARTICLE 14. PARKLAND DEDICATION.¹

§ 25-1-601 GENERAL PROVISIONS.

- (A) The City of Austin has determined that recreational areas in the form of public parks are necessary for the well-being of residents **and employees**. The City has further determined that the approval of new residential **and commercial** development is reasonably related to the need for additional parkland and park amenities to serve new development. This article establishes a fair method for determining parkland dedication, or the payment of a fee in-lieu of dedication, to be required as a condition to the approval of new development in an amount proportionate to the impact of development on existing parks and established levels of service.
- (B) Except as otherwise provided in this section, the parkland dedication requirements of this article apply to:
- (1) a residential **and commercial** subdivision within the planning jurisdiction;
 - (2) a site plan within the zoning jurisdiction that includes residential units or **commercial square footage [a hotel-motel-use]**; and
 - (3) a ~~residential~~ building permit for **residential and commercial development**, as provided under Section 25-1-608 (*Dedication of Land or Payment In-Lieu at Building Permit*).
- (C) The following are exempt from the requirements of this article:
- (1) a subdivision or site plan for which parkland was previously dedicated or payment made under this title, except for the dwelling units or **commercial square footage [lots]** that exceed the number for which dedication or payment was made;
 - (2) development within the City's extraterritorial jurisdiction that is within Travis County and governed by Title 30 (*Austin/Travis County Subdivision Regulations*); and
 - (3) affordable dwelling units that are certified under the S.M.A.R.T. Housing Policy approved by the city council.
- (D) The following definitions apply throughout this article:
- (1) ANNUAL OCCUPANCY RATE means the hotel-motel occupancy rate for the City of Austin, as reported annually by the Texas Economic Development & Tourism Office.
 - (2) **COMMERCIAL OCCUPANCY RATE means the City of Austin's current commercial occupancy rate as determined annually by the director annually using the most recent data from the Austin Chamber of Commerce or a comparable source if deemed appropriate by the director.**
 - (3) **COMMUTER POPULATION PERCENTAGE means the percentage of employees who live outside the City of Austin's corporate limits, as determined by the most recent United States Census.**

¹Editor's note(s)—Ord. No. 20160128-086, Pt. 2, adopted February 8, 2016 , amended article 14 in its entirety to read as herein set out. Former article 14, §§ 25-1-601—25-1-607, pertained to similar subject matter. See Code Comparative Table for complete derivation.

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- (4[2]) DEFICIENT PARK AREA MAP means a map depicting areas that the director has determined lack sufficient parkland based on locational criteria established by the Parkland Dedication Operating Procedures and the parkland policies of the Imagine Austin Comprehensive Plan.
- (5[3]) DIRECTOR means the director of the Parks and Recreation Department.
- (6[4]) DISTRICT PARK means a park of 31 to 100 acres with a two-mile service area.
- (7) EMPLOYEE means a person who works within the City of Austin's corporate limits.
- (8) EMPLOYEE DENSITY means the average amount of floorspace per full-time equivalent member of staff, used to measure the intensity of the proposed commercial development.
- (8) FUNCTIONAL POPULATION means the effective population of a commercial development for purposes of calculating the amount of parkland dedication required under this article. The Functional Population is calculated using a combination of factors to account for the time a commercial development is occupied and thereby creating an impact on the existing park system.
- (10[5]) GREENWAYS means a multi-functional linear park that:
- (a) links two or more separate parks;
 - (b) serves as a wildlife corridor;
 - (c) provides flood control; or
 - (d) contains routes for non-motorized vehicles.
- (11) HOTEL-MOTEL: Hotel-Motel means the use as described in Section 25-2-4(*Commercial Uses Described*).
- (12) INDUSTRIAL: Any uses described in Section 25-2-5 (*Industrial Uses Described*).
- (13[6]) METRO PARK means a park of 200 or more acres that serves the entire city.
- (14[7]) NEIGHBORHOOD PARK means a park of two to thirty acres with a one-mile service area.
- (15) OFFICE means Administrative and Business Offices, Medical Offices, Professional Office, Software Development and Research Services uses as those uses are described in 25-2-4 (*Commercial Uses Described*).
- (16) OPERATION HOURS means the average time during which a commercial use is open for employee use.
- (17[8]) PARKLAND DEDICATION URBAN CORE means an area bound by Highway 71/Ben White Boulevard to the south; Highway 183 to the east and north; Loop 1 (MOPAC) on the west to FM 2222; FM 2222 on the north to Loop 360; Loop 360 on the west to Lake Austin; Lake Austin on the west to Loop 1 (MOPAC); and Loop 1 (MOPAC) on the west to Highway 71 (Ben White); [A copy of map can be found in city offices.]
- (18[9]) POCKET PARK means a park of no more than two acres with a one-quarter mile service area.
- (19) RETAIL means any uses described in 25-2-4 (*Commercial Uses Described*) except for Hotel-Motel and Office uses.

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

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§ 25-1-602 DEDICATION OF PARKLAND.

- (A) A subdivision or site plan applicant shall provide for the parkland needs of the residents **and employees** 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 25-1-605 (*Fee In-Lieu of Parkland Dedication*).
- (B) For a **residential** subdivision, the area to be dedicated must be shown on the preliminary plan and final plat as "Parkland Dedicated to the City of Austin." 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 Chapter 25-5 (*Site Plan*).
- (C) For a site plan, the area to be dedicated must be shown on the site plan as "Parkland Dedicated to the City of Austin" and in a deed to the City. The applicant shall dedicate the parkland required by this article to the City by deed before the site plan is released, except that dedication may be deferred until issuance of a certificate of occupancy if construction of amenities is authorized under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) or Section 25-1-606 (*Parkland Development Fee*). 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) For a building permit that is subject to Section 25-1-608 (*Dedication of Land or Payment 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) **If a subdivision or site plan proposes both residential and commercial uses, parkland dedication will be required for both uses. The amount of parkland required will be calculated based on the number of residential units and amount of commercial square footage being proposed in the development.**
- (F) **For a development proposing a hotel-motel use, parkland dedication will be required for both the residential and commercial uses.**
- (1) **The amount of parkland required for the commercial component of a hotel-motel use is based on the total amount of square footage, including the square footage of all guest rooms.**
- (2) **The amount of parkland required for the residential component of a hotel-motel use is based on the number of guest rooms.**
- (G[E]) Except as provided under Subsection (O[H]) of this section, the amount of parkland required to be dedicated to the City is 9.4 acres for every 1,000 residents **or employees**. ~~[as determined by the following formula:]~~
- (H[G]) **For residential development, the following formula will apply:**

$$\frac{9.4 \times (\text{Number Of Units}) \times (\text{Residents Per Unit})}{1000} = \text{Acres of parkland}$$

- (I[F]) In calculating the amount of parkland to be dedicated **for residential development [under this section]**, the number of residents in each dwelling unit is based on density as follows:

Density Classification	Residents In Each Dwelling Unit
<i>Low Density:</i> Not more than 6 units per acre	2.8
<i>Medium Density:</i> More than 6 and not more than 12 units per acre	2.2

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<i>High Density:</i> More than 12 units per acre	1.7
<i>Hotel-Motel Occupancy Density:</i> Total number of rooms	1.7 × Annual Occupancy Rate

(J[G]) If the density of a development is not known:

- (1) the density is assumed to be the highest permitted in the zoning district, or if the property is not zoned, 24 dwelling units per acre; or
- (2) 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 25-1-605 (*Fee In-Lieu of Parkland Dedication*).

(K) For commercial development, the following formula will apply:

$$\frac{9.4 \text{ acres} \times \text{Functional Population}}{1,000} = \text{Parkland Owed}$$

where:

- (1) Functional Population= (Square Feet of Building/Square Feet Per Occupant) x Commercial Occupancy Rate x Operation Hours x Commuter Population Percentage
- (2) The Employee Density and Operation Hours are listed below for each Commercial Classification:

Commercial Classification	Employee Density (per employee)	Operation Hours
Industrial	2,500 sf	70.08%
Hotel-Motel	1,500 sf	70.08%
Office	300 sq ft	23.8%
Retail	550 sq ft	37.5%

(L) If the amount of square footage for a commercial development is not known at the time parkland dedication is being required for development approval, the amount of parkland dedication required will be based on the maximum square footage that could be built under the applicable zoning site development standards. If the amount of square footage built is less than the amount used for calculating parkland dedication requirements, the director shall issue a refund under Section 25-1-607(E).

(M[H]) The subdivision or site plan applicant shall 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 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;

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- (5) taxes prorated to the closing date;
- (6) recording fees; and
- (7) charges or fees collected by the title company.

(N[H]) Development within a Planned Unit Development (PUD) zoning district 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 Chapter 25-2, Article 2, Division 5 (*Planned Unit Developments*).

(O[H]) The amount of parkland required to be dedicated within the Parkland Dedication Urban Core may not exceed 15% 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% cap, up to the amount required under Subsection (G[E]) of this section, if doing so is necessary to:
 - (a) address a critical shortage of parkland for an area identified in the Deficient Parkland Area Map; or
 - (b) 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% of gross site area; or
 - (b) require additional parkland dedication beyond the 15% cap, up to the lesser of:
 - (i) the amount required under Subsection (G[E]) of this section; or
 - (ii) the minimum amount the Land Use Commission finds to be necessary based on the criteria in Paragraph (1)(a)-(b) of this subsection 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 cap imposed by this subsection, the director shall require payment of a fee in-lieu of dedication under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) for the remaining undedicated land.
- (5) A request by the director under this subsection may be consolidated with an appeal by the applicant under Section 25-1-605(G[F]) (*Payment of Fee In-Lieu Dedication*).

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

§ 25-1-603 STANDARDS FOR DEDICATED PARKLAND.

- (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.

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- (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) In addition to the requirements of this subsection, 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) of this section and may require a subdivision or site plan applicant to provide information deemed necessary to determine compliance.
- (C) Unless otherwise required under the Parkland Dedication Operating Procedures, fifty 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 maintained by the Parks and Recreation Department 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. In this event, 50 percent of the acreage may be credited toward fulfilling the requirements of this article.

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

§ 25-1-604 PRIVATE PARKLAND.

- (A) The director may allow up to a 100 percent credit toward fulfilling the requirements of:
 - (1) Section 25-1-602 (*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 25-1-606 (*Parkland Development Fee*) for recreational facilities that are located on privately owned and maintained parkland and available for use by the public.
- (B) The director may allow up to a 100 percent credit toward fulfilling the requirements of this article for private parkland in a subdivision or site plan located outside the city limits, 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 when 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 25-1-605 (*Fee In-Lieu of Parkland Dedication*) and the development fee required under Section 25-1-606 (*Parkland Development Fee*). The fiscal surety must be posted:
 - (1) before final plat approval; or
 - (2) 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 recreation easement must be recorded prior to site plan or subdivision approval.

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

§ 25-1-605 FEE IN-LIEU OF PARKLAND DEDICATION.

- (A) The director may require or allow a subdivision or site plan applicant to deposit with the City a fee in-lieu of parkland dedication under Section 25-1-602 (*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) of this section; and
 - (2) the following additional requirements are met:
 - (a) less than six acres is required to be dedicated under Section 25-1-602 (*Dedication of Parkland*); or
 - (b) the land available for dedication does not comply with the standards for dedication under Section 25-1-603 (*Standards for Dedicated Parkland*).
- (B) In determining whether to require dedication of land under Section 25-1-602 (*Dedication of Parkland*) or allow payment of a fee in-lieu of dedication under this section, the director shall consider whether the subdivision or site plan:
- (1) is located within the Deficient Park Area Map;
 - (2) is adjacent to existing parkland;
 - (3) has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;
 - (4) is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map; or
 - (5) would provide increased connectivity with existing or planned parks or recreational amenities.
- (C) If an applicant seeks payment of fee in-lieu of parkland dedication, the director shall not accept a preliminary plan or plat application until the applicant shall request payment, and the director shall determine whether payment will be allowed. The director shall, at the request of an applicant, determine whether payment of a fee in-lieu of parkland dedication will be allowed prior to formal submittal of a site plan. The director may establish requirements for obtaining the determination in the Parkland Dedication Operating Procedures and may require an applicant to provide information relevant to the criteria in Subsection (B) of this section. A determination issued under this subsection is valid for a period of one-year from the date of issuance.
- (D) The amount of the fee in-lieu of parkland dedication for residential development is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.
- (1) Residential Fee In-Lieu of Dedication:

Density Classification	Fee In-Lieu Amount
<i>Low Density:</i> Not more than 6 units per acre	$2.8 \times \text{Land Cost Per Person}$
<i>Medium Density:</i> More than 6 and not more than 12 units per acre	$2.2 \times \text{Land Cost Per Person}$
<i>High Density:</i> More than 12 units per acre	$1.7 \times \text{Land Cost Per Person}$
<i>Hotel-Motel Occupancy Density:</i> Total number of rooms	$1.7 \times \text{Land Cost Per Person} \times \text{Annual Occupancy Rate}$

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- (2) For purposes of determining the **residential** fee in-lieu under Subsection (D)(1):

$$\text{Land Cost Per Person} = \frac{\text{Parkland Cost Factor}}{\text{Parkland Level-of-Service}}$$

where:

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

$$\frac{\text{City Population}}{\text{Net Park Acreage}}$$

where "City Population" is determined by the city demographer and "Net Park Acreage" is the total citywide acreage of neighborhood parks, pocket parks, and greenways, as determined by the director prior to adoption of the annual fee ordinance by the city council.

- (E) The amount of the fee in-lieu of parkland dedication for commercial development is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.

- (1) Commercial Development In-Lieu of Dedication:

$$\text{Commerical Fee In – Lieu of Dedication} = \text{Functional Population} \times \text{Land Cost Per Person}$$

- (2) For purposes of determining the fee in-lieu for commercial development under Subsection (E)(1):

$$\text{Land Cost Per Person} = \frac{\text{Parkland Cost Factor}}{\text{Parkland Level-of-Service}}$$

where:

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

$$\frac{\text{City Population}}{\text{Net Park Acreage}}$$

where "City Population" is determined by the city demographer and "Net Park Acreage" is the total citywide acreage of neighborhood parks, pocket parks, and greenways, as determined by the Director prior to adoption of the annual fee ordinance by the City Council.

- (F(E)) 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 25-1-602 (*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 25-1-602 (*Dedication of*

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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.

(G[F]) If the director rejects a request to pay a fee in-lieu of dedication under Subsection (B) of this section, the applicant may appeal the director's decision to the Land Use Commission consistent with the procedures in Article 7, Division 1 (*Appeals*) of this chapter. Before the Land Use Commission considers the appeal, the director shall present the case to the Parks Board for a recommendation, but failure by the Parks Board to act shall not prohibit the Land Use Commission from considering the appeal.

Source: Ord. No. 20150128-086, Pt. 2, 2-8-16 ; Ord. No. 20190822-117 , Pt. 16, 9-1-19.

§ 25-1-606 PARKLAND DEVELOPMENT FEE.

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

(1) **Residential** Parkland Development Fee:

Density Classification	Development Fee Amount
<i>Low Density</i> : Not more than 6 units per acre	$2.8 \times \text{Park Development Cost Per Person}$
<i>Medium Density</i> : More than 6 and not more than 12 units per acre	$2.2 \times \text{Park Development Cost Per Person}$
<i>High Density</i> : More than 12 units per acre	$1.7 \times \text{Park Development Cost Per Person}$
<i>Hotel-Motel Occupancy Density</i> : Total number of rooms	$1.7 \times \text{Park Development Cost Per Person} \times \text{Annual Occupancy Rate}$

(2) For purposes of determining the **residential** development fee under Subsection (B)(1):

$$\begin{aligned} \text{Park Development Cost} = \\ \frac{\text{Park Development Cost Factor}}{\text{Park Facilities Level-of-Service}} \end{aligned}$$

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:

$$\frac{\text{City Population}}{\text{Number of Developed Parks}}$$

where "City Population" is determined by the city demographer and "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 city council.

(3) For purposes of determining the development fee:

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*Commerical Park Development Fee =
Functional Population X Park Development Cost Per Person*

where:

Park Development Cost Per Person =

Park Development Cost Factor
Park Facilities Level-of-Service

- (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:

City Population
Number of Developed Parks

where "City Population" is determined by the city demographer and "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 city council.

- (C) The director may allow an applicant to construct recreational amenities on public parkland 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.

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

§ 25-1-607 FEE PAYMENT AND EXPENDITURE.

- (A) Payment of a fee required under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) or Section 25-1-606 (*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 Section 25-5-2 (*Site Plan Exemptions*).
 - (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 25-1-605 (*Fee In-Lieu of Parkland Dedication*) and Section 25-1-606 (*Parkland Development Fee*) into separate funds and use the fees consistently with the requirements of this subsection.

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- (1) Except as provided in Subsection (B)(3), the director shall use fees paid under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) solely to acquire parkland or recreational easements that will benefit residents **and employees** 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.
 - (2) The director shall use fees paid under Section 25-1-606 (*Parkland Development Fees*) solely to acquire and develop recreational amenities that will benefit residents **and employees** 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 25-1-605 (*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 25-1-603 (*Standards for Dedicated Parkland*) 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 **or commercial square footage** 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 and Recreation Department not later than 180 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.
- (E) **If a commercial development has paid a fee in-lieu of dedication and the amount of square footage for the commercial development built is less than the square footage previously assessed, the applicant may request a refund in writing to the director. The director shall recalculate the amount of parkland dedication due based on the reduced square footage and refund any fees paid in excess of that amount.**

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

§ 25-1-608 DEDICATION OF LAND OR PAYMENT 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 as a condition to obtaining a building permit for ~~residential~~ development located within a subdivision that:

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ADDING COMMERCIAL PARKLAND DEDICATION REQUIREMENTS
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- (1) at the time of 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; ~~and~~ [-]
 - (3) adds additional square footage to a commercial development that is required to dedicate parkland under this article.
- (B) The amount of a fee in-lieu of parkland dedication under this section shall be calculated in accordance with Section 25-1-602 (*Dedication of Parkland*) and Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*).

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16 .

§ 25-1-609 ADMINISTRATIVE AUTHORITY.

- (A) The director is authorized to adopt administrative rules and take other actions that are necessary to implement this article.
- (B) The director shall, at a minimum, adopt the following by administrative rule under Chapter 1-2 (*Administrative Rules*):
- (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 25-1-607 (*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 25-1-603 (*Standards for Dedicated Parkland*);
 - (c) methodology for determining:
 - (i) parkland cost factor and park level-of-service under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*); and
 - (ii) park development cost factor and facilities level-of-service under Section 25-1-606 (*Parkland Development Fee*); and
 - (d) other provisions deemed necessary for implementing this article.
- (C) Before initiating the administrative rules process, as required by Subsection (B) of this section, the director shall present a proposed Deficient Park Area Map and Parkland Dedication Operating Procedures to the Parks Board for a recommendation.

Source: Ord. No. 20160128-086, Pt. 2, 2-8-16)