

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

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

- A. Core principles of the Imagine Austin Comprehensive Plan envision the City of Austin as a healthy community, one with ample recreational opportunities and open space integrated into a compact and connected city to be enjoyed by its residents, workforce, and visitors.
- B. In order to maintain existing levels of park service, the City has since 1985 required new residential development to dedicate parkland or pay a fee in lieu of dedication.
- C. The existing parkland dedication ordinance addresses the costs of acquiring and developing parkland sufficient to serve full-time residents of the city, including employee residents, but does not address the impact of the portion of the workforce that commutes into the city from other jurisdictions.
- D. According to the latest U.S. Census data, 35.8% of the workforce that hold jobs in the City live outside city limits.
- E. Park visitor data demonstrates an increased use of parks located near high concentrations of commercial development immediately before and after business hours and during lunch breaks.
- F. With the adoption of Resolution No. 20220407-042, the City Council initiated amendments to the City's parkland dedication requirements to better achieve the goals of Imagine Austin by capturing the impact of commercial developments on the existing park system.

- 31 G. In the community surveys conducted by the Parks and Recreation  
32 Department, 68% of respondents indicated they access public parks before,  
33 during, or after work more than twice a month and 74% indicated that  
34 business operations would improve as a result of additional parkland  
35 dedication requirements.
- 36 H. The City’s Commercial Parkland Dedication Nexus Study (“Nexus Study”),  
37 issued on August 10th, 2022, found that new office, retail, and industrial  
38 developments result in additional park users from the employees who work  
39 in those developments.
- 40 I. Because the existing parkland dedication ordinance does not address the  
41 impact of the city’s commuting workforce, it is insufficient to maintain the  
42 City’s existing park levels of service.
- 43 J. The amendments adopted by this ordinance reflect the findings in the Nexus  
44 Study and ensure that new commercial development contributes its fair share  
45 toward maintaining the City park system’s level of service.

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

47 **§ 25-1-601 GENERAL PROVISIONS.**

- 48 (A) The City of Austin has determined that recreational areas in the form of  
49 public parks are necessary for the well-being of residents and employees.  
50 The City has further determined that the approval of new residential and  
51 commercial development is reasonably related to the need for additional  
52 parkland and park amenities to serve new development. This article  
53 establishes a fair method for determining parkland dedication, or the  
54 payment of a fee in-lieu of dedication, to be required as a condition to the  
55 approval of new development in an amount proportionate to the impact of  
56 development on existing parks and established levels of service.
- 57 (B) Except as otherwise provided in this section, the parkland dedication  
58 requirements of this article apply to:
- 59 (1) a residential or commercial subdivision within the planning  
60 jurisdiction;

- 62 (2) a site plan within the zoning jurisdiction that includes residential units  
63 or ~~[a hotel-motel use]~~ commercial square footage; and
- 64 (3) a ~~[residential]~~ building permit for residential or commercial  
65 development, as provided under Section 25-1-608 (*Dedication of*  
66 *Land or Payment In-Lieu at Building Permit*).

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

- 68 (1) a subdivision or site plan for which parkland was previously dedicated  
69 or payment made under this title, except for the dwelling units, ~~[or]~~  
70 lots, or commercial square footage that exceeds the number for which  
71 dedication or payment was made;
- 72 (2) development within the City's extraterritorial jurisdiction that is  
73 within Travis County and governed by Title 30 (*Austin/Travis County*  
74 *Subdivision Regulations*); and
- 75 (3) affordable dwelling units that are certified under the S.M.A.R.T.  
76 Housing Policy approved by the city council.

77 (D) The following definitions apply throughout this article:

- 78 (1) ANNUAL OCCUPANCY RATE means the hotel-motel occupancy  
79 rate for the City of Austin, as reported annually by the Texas  
80 Economic Development & Tourism Office.
- 81 (2) COMMERCIAL DEVELOPMENT means Hotel-Motel, Industrial,  
82 Office, and Retail uses.
- 83 (3) COMMERCIAL OCCUPANCY RATE means the City of Austin's  
84 current commercial occupancy rate as determined annually by the  
85 director using the most recent data from the Austin Chamber of  
86 Commerce or a comparable source deemed appropriate by the  
87 director.
- 88 (4) COMMUTER POPULATION PERCENTAGE means the percentage  
89 of employees who work onsite within the City but live outside of the  
90 City.
- 91 (5[2]) DEFICIENT PARK AREA MAP means a map depicting areas that  
92 the director has determined lack sufficient parkland based on

93 locational criteria established by the Parkland Dedication Operating  
94 Procedures and the parkland policies of the Imagine Austin  
95 Comprehensive Plan.

96 (6[3]) DIRECTOR means the director of the Parks and Recreation  
97 Department.

98 (7[4]) DISTRICT PARK means a park of 31 to 100 acres with a two-mile  
99 service area.

100 (8) EMPLOYEE means a person who works within the City of Austin's  
101 corporate limits.

102 (9) EMPLOYEE DENSITY means the average amount of floorspace per  
103 full-time employee, used to measure the intensity of the proposed  
104 commercial development.

105 (10) FUNCTIONAL POPULATION means the effective population of a  
106 commercial development for purposes of calculating the amount of  
107 parkland dedication required under this article. This number is  
108 calculated using a combination of factors to account for the time a  
109 commercial development is occupied and thereby creating an impact  
110 on the existing park system.

111 (11[5]) GREENWAYS means a multi-functional linear park that:

- 112 (a) links two or more separate parks;
- 113 (b) serves as a wildlife corridor;
- 114 (c) provides flood control; or
- 115 (d) contains routes for non-motorized vehicles.

116 (12) HOTEL-MOTEL means the use as described in Section 25-2-4  
117 (Commercial Uses Described).

118 (13) INDUSTRIAL means a use described in Section 25-2-5 (Industrial  
119 Uses Described).

(14[6]) METRO PARK means a park of 200 or more acres that serves the entire city.

(15[7]) NEIGHBORHOOD PARK means a park of two to thirty acres with a one-mile service area.

(16) OFFICE means Administrative and Business Offices, Medical Offices, Professional Office, Software Development, and Research Services as those uses are described in Section 25-2-4 (Commercial Uses Described).

(17) OPERATION HOURS means the average number of hours a commercial development is open for employee use.

(18[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.]

(19[9]) POCKET PARK means a park of no more than two acres with a one-quarter mile service area.

(20) RETAIL means a use described in Section 25-2-4 (Commercial Uses Described) except for Hotel-Motel and Office uses.

(E) The commuter population percentage is calculated by subtracting the total workers living and working in the City from the total working in the City and dividing the difference by the total working in the City.

## **§ 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 (Q[F]) 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) 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, including hotel-motel rooms, ~~[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
<i>High Density:</i> More than 12 units per acre	1.7
<i>Hotel-Motel Occupancy Density:</i> Total number of rooms	$1.7 \times \text{Annual Occupancy Rate}$

(J[G]) If the density of a residential 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:

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

where:

- (1) Functional Population= (Square Feet of Building/Square Feet Per Occupant) x Commercial Occupancy Rate x Operation Hours x Commuter Population Percentage)
- (2) In calculating the amount of parkland to be dedicated for commercial development, the employee density and operation hours are as follows:

<u>Commercial Development Use</u>	<u>Employee Density (per employee)</u>	<u>Operation Hours</u>
<u>Industrial</u>	<u>2,500 sf</u>	<u>70.8%</u>
<u>Hotel-Motel</u>	<u>1,500 sq ft</u>	<u>70.8%</u>
<u>Office</u>	<u>300 sq ft</u>	<u>23.8%</u>
<u>Retail</u>	<u>550 sf</u>	<u>37.5%</u>

(L) If the amount of square footage for a commercial development is not known at the time parkland dedication is required for development approval, the amount of parkland dedication shall be based on the maximum square footage that could be built under the applicable zoning site development standards. If the square footage built is less than the amount used to calculate parkland dedication requirements, the director shall issue a refund under Subsection 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;
- (5) taxes prorated to the closing date;
- (6) recording fees; and
- (7) charges or fees collected by the title company.

(N[F]) 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[F]) 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.

- 253 (3) In considering a request from the director under this subsection, the  
254 Land Use Commission may:
- 255 (a) deny the director's request and limit the required dedication to  
256 no more than 15% of gross site area; or
- 257 (b) require additional parkland dedication beyond the 15% cap, up  
258 to the lesser of:
- 259 (i) the amount required under Subsection (G[~~E~~]) of this  
260 section; or
- 261 (ii) the minimum amount the Land Use Commission finds to  
262 be necessary based on the criteria in Paragraph (1)(a)-(b)  
263 of this subsection and the Parkland Dedication Operating  
264 Procedures.
- 265 (4) If an applicant dedicates less than the amount of land required for  
266 dedication under Subsection (G[~~E~~]) due to the cap imposed by this  
267 subsection, the director shall require payment of a fee in-lieu of  
268 dedication under Section 25-1-605 (*Fee In-Lieu of Parkland*  
269 *Dedication*) for the remaining undedicated land.
- 270 (5) A request by the director under this subsection may be consolidated  
271 with an appeal by the applicant under Section 25-1-605(G[~~F~~])  
272 (*Payment of Fee In-Lieu Dedication*).

273 **§ 25-1-603 STANDARDS FOR DEDICATED PARKLAND**

- 274 (A) In addition to the requirements of this article, land to be dedicated as  
275 parkland must meet the requirements of this subsection.
- 276
- 277 (1) Parkland must be easily accessible to the public and open to public  
278 view so as to benefit area residents, enhance the visual character of  
279 the City, protect public safety, and minimize conflicts with adjacent  
280 land uses.
- 281
- 282 (2) On-street and off-street connections between residential  
283 neighborhoods shall be provided, wherever possible, to provide  
284 reasonable access to parks and open space areas.  
285

(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.

#### **§ 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.

- 319 (B) The director may allow up to a 100 percent credit toward fulfilling the  
320 requirements of this article for private parkland in a subdivision or site plan  
321 located outside the city limits, if:
- 322 (1) the director determines that the private parkland meets City parkland  
323 standards; and
- 324 (2) the landowner agrees to dedicate the private parkland to the City when  
325 the City annexes the land for all purposes.
- 326 (C) If private parkland will include construction of recreational amenities, the  
327 applicant must post fiscal surety in an amount equal to the fee in-lieu  
328 provided for under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*)  
329 and the development fee required under Section 25-1-606 (*Parkland*  
330 *Development Fee*). The fiscal surety must be posted:
- 331 (1) before final plat approval; or
- 332 (2) before site plan release, for any portion of the subdivision that will  
333 require a site plan.
- 334 (D) Yards, setback areas, and private personal open spaces required by this title  
335 may not be counted as private parkland under this section, except for a  
336 required setback or yard that includes a public trail.
- 337 (E) If private parkland is allowed, a recreation easement must be recorded prior  
338 to site plan or subdivision approval.

339 **§ 25-1-605 FEE IN-LIEU OF PARKLAND DEDICATION.**

- 340 (A) The director may require or allow a subdivision or site plan applicant to  
341 deposit with the City a fee in-lieu of parkland dedication under Section 25-1-  
342 602 (*Dedication of Parkland*) if:
- 343 (1) the director determines that payment of a fee in-lieu of dedication is  
344 justified under the criteria in Subsection (B) of this section; and
- 345 (2) the following additional requirements are met:

346 (a) less than six acres is required to be dedicated under Section 25-  
347 1-602 (*Dedication of Parkland*); or

348 (b) the land available for dedication does not comply with the  
349 standards for dedication under Section 25-1-603 (*Standards for*  
350 *Dedicated Parkland*).

351 (B) In determining whether to require dedication of land under Section 25-1-602  
352 (*Dedication of Parkland*) or allow payment of a fee in-lieu of dedication  
353 under this section, the director shall consider whether the subdivision or site  
354 plan:

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

356 (2) is adjacent to existing parkland;

357 (3) has sufficient acreage to meet the standards for dedicated parkland  
358 under the Parkland Dedication Operating Procedures;

359 (4) is needed to address a critical need for parkland or to remedy a  
360 deficiency identified by the Deficient Park Area Map; or

361 (5) would provide increased connectivity with existing or planned parks  
362 or recreational amenities.

363 (C) If an applicant seeks payment of fee in-lieu of parkland dedication, the  
364 director shall not accept a preliminary plan or plat application until the  
365 applicant shall request payment, and the director shall determine whether  
366 payment will be allowed. The director shall, at the request of an applicant,  
367 determine whether payment of a fee in-lieu of parkland dedication will be  
368 allowed prior to formal submittal of a site plan. The director may establish  
369 requirements for obtaining the determination in the Parkland Dedication  
370 Operating Procedures and may require an applicant to provide information  
371 relevant to the criteria in Subsection (B) of this section. A determination  
372 issued under this subsection is valid for a period of one-year from the date of  
373 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	$1.7 \times \text{Land Cost Per Person} \times \text{Annual Occupancy Rate}$

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

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 Fee In-Lieu of Dedication:

$$\text{Commercial Fee In – Lieu} =$$

$$\text{Functional Population X Land Cost Per Person}$$

(2) For purposes of determining the commercial fee in-lieu 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 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.

#### § 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	$2.8 \times$ 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):

Park Development Cost =

$\frac{\text{Park Development Cost Factor}}{\text{Park Facilities Level-of-Service}}$

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 commercial development fee:

Commercial Park Development Fee =

Functional Population x Park Development Cost Per Person

where:

(a) Park Development Cost Per Person =

Park Development Cost Factor  
Park Facilities Level-of-Service

(b) "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

(c) "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.

#### **§ 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.

493 (1) If a fee in-lieu of dedication or a parkland development fee is required  
494 as a condition to subdivision approval, the applicant must deposit the  
495 fee with the City before final plat approval. The applicant may defer  
496 payment of a fee until site plan approval unless development proposed  
497 within the subdivision is exempt from the requirement to submit a site  
498 plan under Section 25-5-2 (*Site Plan Exemptions*).

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

502 (B) The director shall place fees paid under Section 25-1-605 (*Fee In-Lieu of*  
503 *Parkland Dedication*) and Section 25-1-606 (*Parkland Development Fee*)  
504 into separate funds and use the fees consistently with the requirements of  
505 this subsection.

506 (1) Except as provided in Subsection (B)(3), the director shall use fees  
507 paid under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*)  
508 solely to acquire parkland or recreational easements that will benefit  
509 residents and employees of the development for which the fees are  
510 assessed and are located within a service area designated by the  
511 director under the Parkland Dedication Operating Procedures.

512 (2) The director shall use fees paid under Section 25-1-606 (*Parkland*  
513 *Development Fees*) solely to acquire and develop recreational  
514 amenities that will benefit residents and employees of the  
515 development for which the fees are assessed and are located within a  
516 service area designated by the director under the Parkland Dedication  
517 Operating Procedures.

518 (3) The director may use fees paid under Section 25-1-605 (*Fee In-Lieu*  
519 *of Parkland Dedication*) consistent with the purposes described in  
520 Subsection (B)(2) if, within one year from the date the fees are  
521 appropriated for expenditure, the director determines that land which  
522 meets the requirements of Section 25-1-603 (*Standards for Dedicated*  
523 *Parkland*) is unavailable for purchase within the service area for  
524 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 the applicant of 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 due based on the reduced square footage and refund any fees paid in excess of that amount.

## **§ 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:

- 559 (1) at the time of approval, was deemed to be exempt from a requirement  
560 to dedicate parkland or pay a fee in-lieu of dedication based on the  
561 assumption that development within the subdivision would be limited  
562 to non-residential uses; ~~and~~
- 563 (2) has not subsequently developed with a use for which parkland was  
564 dedicated or a fee in-lieu of dedication was paid; and[-]
- 565 (3) adds additional square footage to a commercial development that is  
566 required to dedicate parkland under this article.

- 567 (B) The amount of a fee in-lieu of parkland dedication under this section shall be  
568 calculated in accordance with Section 25-1-602 (Dedication of Parkland)  
569 and Section 25-1-605 (Fee In-Lieu of Parkland Dedication).

570 **§ 25-1-609 ADMINISTRATIVE AUTHORITY.**

- 571 (A) The director is authorized to adopt administrative rules and take other  
572 actions that are necessary to implement this article.
- 573 (B) The director shall, at a minimum, adopt the following by administrative rule  
574 under Chapter 1-2 (*Administrative Rules*):
- 575 (1) a Deficient Park Area Map illustrating shortages in parkland;
- 576 (2) Parkland Dedication Operating Procedures establishing:
- 577 (a) boundaries for service areas required by Section 25-1-607 (*Fee*  
578 *Payment and Expenditure*) for use of a fee in-lieu of parkland  
579 dedication and parkland development fee;
- 580 (b) general standards for dedicated parkland under Section 25-1-  
581 603 (*Standards for Dedicated Parkland*);
- 582 (c) methodology for determining:
- 583 (i) parkland cost factor and park level-of-service under  
584 Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*);  
585 and
- 586 (ii) park development cost factor and facilities level-of-  
587 service under Section 25-1-606 (*Parkland Development*  
588 *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.

**PART 3.** This ordinance will not apply to any required building permits necessary to complete a “project” as defined in Section 25-1-531 (*Definitions*) for “commercial development” as defined in Part 2 filed with the City on or before the effective date of this ordinance.

**PART 4.** Council waives the requirements of City Code Section 25-1-501 (*Initiation of Amendment*) for the initiation of these amendments and of Section 25-1-502 (*Amendment Review*) for holding a public hearing and for Planning Commission review of these amendments.

**PART 5.** This ordinance takes effect on \_\_\_\_\_, 2022.

**PASSED AND APPROVED**

\_\_\_\_\_, 2022      §  
   §  
   §  
   §  
\_\_\_\_\_, 2022      §  
Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Myrna Rios  
City Clerk