

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-1 RELATING TO PARKLAND DEDICATION AND ASSOCIATED PARKLAND FEES AND WAIVING REQUIREMENTS IN CITY CODE SECTION 25-1-501 RELATING TO INITIATION OF AN AMENDMENT AND SECTION 25-1-502 RELATING TO PLANNING COMMISSION PUBLIC HEARING AND REVIEW.

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

PART 1. The City Council makes the following findings:

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

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

46 **§ 25-1-601 GENERAL PROVISIONS.**

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

- (3) a [~~residential~~] building permit for residential or 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~~] lots, or commercial square footage that exceeds 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[-]; and
- (4) affordable dwelling units for which the applicant is participating in a government-operated affordable housing program that requires the applicant to provide on-site income-restricted units including, but not limited to, housing developer assistance, low-income housing tax credits, and density or other incentive programs.

(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 DEVELOPMENT means Hotel-Motel, Industrial, Office, and Retail uses.
- (3) COMMERCIAL OCCUPANCY RATE means the City of Austin's current commercial occupancy rate as determined annually by the director using the most recent data from the Austin Chamber of Commerce or a comparable source deemed appropriate by the director.
- (4) COMMUTER POPULATION PERCENTAGE means the percentage of employees who work onsite within the City but live outside of the City.

(5[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.

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

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

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

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

(10) FUNCTIONAL POPULATION means the effective population of a commercial development for purposes of calculating the amount of parkland dedication required under this article. This number 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.

(11[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.

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

(13) INDUSTRIAL means a use described in Section 25-2-5 (Industrial 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.
- (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 (~~G[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*).

§ 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.
- (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.

- 293
- 294 (C) Unless otherwise required under the Parkland Dedication Operating
- 295 Procedures, fifty percent of acreage in the 100 year floodplain that is
- 296 dedicated as parkland may be credited toward fulfilling the requirements of
- 297 this article if any adjoining land within the 25 year floodplain is also
- 298 dedicated as parkland. The land within the 25 year floodplain may not be
- 299 credited toward fulfilling the requirements of this article.
- 300
- 301 (D) Land identified on the Deficient Parkland Area Map maintained by the Parks
- 302 and Recreation Department that does not otherwise comply with the
- 303 standards for parkland dedication may be accepted as dedicated parkland if
- 304 the director determines that the land will provide recreational or educational
- 305 opportunities for the surrounding community. In this event, 50 percent of the
- 306 acreage may be credited toward fulfilling the requirements of this article.

307 **§ 25-1-604 PRIVATE PARKLAND.**

- 308 (A) The director may allow up to a 100 percent credit toward fulfilling the
- 309 requirements of:
- 310 (1) Section 25-1-602 (*Dedication of Parkland*) for privately owned and
- 311 maintained parkland or recreational easements that are available for
- 312 use by the public and meet the standards of the Parkland Dedication
- 313 Operating Procedures; and
- 314 (2) Section 25-1-606 (*Parkland Development Fee*) for recreational
- 315 facilities that are located on privately owned and maintained parkland
- 316 and available for use by the public.
- 317 (B) The director may allow up to a 100 percent credit toward fulfilling the
- 318 requirements of this article for private parkland in a subdivision or site plan
- 319 located outside the city limits, if:
- 320 (1) the director determines that the private parkland meets City parkland
- 321 standards; and
- 322 (2) the land owner agrees to dedicate the private parkland to the City
- 323 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.

§ 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
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<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:

Commercial Fee In – Lieu =

Functional Population X Land Cost Per Person

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

Land Cost Per Person =

Parkland Cost Factor

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:

City Population

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	$2.2 \times$ 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 =

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

(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.

- (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.

(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) Calculating the Fee Rate.

(1) For a subdivision application accepted for filing on or after October 1, 2022, any fees required under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) or Section 25-1-606 (*Parkland Development Fee*) shall be calculated using the rate set forth in the fee schedule in effect at the time the subdivision application was accepted for filing.

(2) For a site plan application filed on or after October 1, 2022, any fees required under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) or Section 25-1-606 (*Parkland Development Fee*) shall be

537 calculated using the rate set forth in the fee schedule in effect at the
538 time the site plan application was filed.

- 539 (3) For a subdivision accepted for filing or a site plan application filed
540 before October 1, 2022, the fees required under Section 25-1-605 (*Fee*
541 *In-Lieu of Parkland Dedication*) or Section 25-1-606 (*Parkland*
542 *Development Fee*) shall be the rate set forth in Ordinance Number
543 20210811-002 (Fiscal Year 2021-2022 Fee Ordinance).

544 (D[€]) The City shall expend a fee collected under this article within five years
545 from the date the fees are appropriated for expenditure by the director. This
546 period is extended by five years if, at the end of the initial five-year period,
547 less than 50 percent of the residential units or commercial square footage
548 within a subdivision or site plan have been constructed.

549 (E[Ð]) If the City does not expend a fee payment by the deadline required in
550 Subsection (C), the subdivision or site plan applicant who paid the fee may
551 request a refund under the requirements of this subsection.

- 552 (1) A refund may only be requested for unbuilt units for which a fee in-
553 lieu of dedication was paid. The refund request must be made in
554 writing and filed with the Parks and Recreation Department not later
555 than 180 days after the expiration of the deadline under Subsection
556 (C).

- 557 (2) If the refund request is timely filed, the director shall:

558 (a) refund the amount of unspent fees that were collected under this
559 article in connection with approval of a subdivision or site plan;
560 and

561 (b) if a site plan for which fees were assessed was subsequently
562 revised to reduce the number of units, recalculate the amount
563 due based on the reduced number of units and refund any fees
564 paid in excess of that amount.

565 (F) If the applicant of a commercial development has paid a fee in lieu of
566 dedication and the amount of square footage for the commercial
567 development built is less than the square footage previously assessed, the
568 applicant may request a refund in writing to the director. The director shall
569 recalculate the amount due based on the reduced square footage and refund
570 any fees paid in excess of that amount.

571 **§ 25-1-608 DEDICATION OF LAND OR PAYMENT IN-LIEU AT BUILDING**
572 **PERMIT.**

573 (A) Dedication of parkland or payment in lieu of dedication, as determined by
574 the director under this article, is required as a condition to obtaining a
575 building permit for ~~[residential]~~ development ~~[located within a subdivision]~~
576 that:

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

581 (2) has not subsequently developed with a use for which parkland was
582 dedicated or a fee in-lieu of dedication was paid; ~~and~~[-]

583 (3) adds additional square footage to a commercial development that is
584 required to dedicate parkland under this article.

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

588 **§ 25-1-609 ADMINISTRATIVE AUTHORITY.**

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

591 (B) The director shall, at a minimum, adopt the following by administrative rule
592 under Chapter 1-2 (*Administrative Rules*):

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

594 (2) Parkland Dedication Operating Procedures establishing:

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

598 (b) general standards for dedicated parkland under Section 25-1-
599 603 (*Standards for Dedicated Parkland*);

600 (c) methodology for determining:

- 601 (i) parkland cost factor and park level-of-service under
602 Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*);
603 and
- 604 (ii) park development cost factor and facilities level-of-
605 service under Section 25-1-606 (*Parkland Development*
606 *Fee*); and
- 607 (d) other provisions deemed necessary for implementing this
608 article.
- 609 (C) Before initiating the administrative rules process, as required by Subsection
610 (B) of this section, the director shall present a proposed Deficient Park Area
611 Map and Parkland Dedication Operating Procedures to the Parks Board for a
612 recommendation.

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

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

620

621 **PART 5.** This ordinance takes effect on _____.

622 **PASSED AND APPROVED**

623

624 §
625 §
626 _____, 2022 § _____
627 Steve Adler
628 Mayor

629

630

631 **APPROVED:** _____
632 Anne L. Morgan
633 City Attorney

634

ATTEST: _____
Myrna Rios
City Clerk