

ORDINANCE NO. 20231130-087

AN ORDINANCE REPEALING AND REPLACING CITY CODE CHAPTER 25-1, ARTICLE 14 RELATING TO PARKLAND DEDICATION; WAIVING REQUIREMENTS OF CITY CODE SECTIONS 25-1-501.

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

PART 1. Council makes the following findings:

- (A) Core principles of the Imagine Austin Comprehensive Plan envision 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 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) During the 88th Legislative Session, the Texas Legislature passed House Bill 1526. This legislation applies to cities with populations over 800,000 and imposes limitations on how cities can require parkland dedication for certain types of development.

PART 2. City Code Chapter 25-1, Article 14 (*Parkland Dedication*) is repealed and replaced to read as follows:

ARTICLE 14. PARKLAND DEDICATION

§ 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. The City has further determined that the approval of new residential development is reasonably related to the need for additional parkland and park amenities to serve new development. This article establishes the method for determining the amount of parkland dedication to be required as a condition to the approval of new development.
- (B) Before receiving approval for a development application, an applicant shall provide for the parkland needs of the new residents.

- (C) Except as otherwise provided in this section, the parkland dedication requirements of this article apply to:
- (1) a subdivision that includes residential units or a hotel-motel use within the planning jurisdiction;
 - (2) a site plan within the zoning jurisdiction that includes residential units or a hotel-motel use; and
 - (3) a building permit for development that:
 - (a) at the time of subdivision or site plan approval, was deemed exempt from parkland dedication based on the assumption that development within the subdivision would be limited to non-residential uses; or
 - (b) is proposing additional residential units that exceed the number of units for which parkland dedication was previously provided for.
- (D) 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 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*);
 - (3) dwelling units that are certified under the S.M.A.R.T. Housing Policy approved by the city council; or
 - (4) dwelling units that are income-restricted under a municipal, county, state, or federal program.
- (E) The following definitions apply throughout this article:
- (1) CONSUMER PRICE INDEX means the Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average, published by the Bureau of Labor Statistics of the United States Department of Labor or its successor in function.

- (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.
- (3) DIRECTOR means the director of the Parks and Recreation Department.
- (4) DISTRICT PARK means a park of 31 to 199 acres with a two-mile service area.
- (5) GEOGRAPHIC AREA means the City's designation of land within its municipal boundaries as a suburban area, urban area, or central business district area for determining the amount of multi-family parkland dedication fee required.
- (6) GOLF COURSE means a city-operated golf course open for public use including 9 or 18 holes.
- (7) 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.
- (8) LAND VALUE means the market value of land per acre, not including an improvement to the land.
- (9) METRO PARK means a park of 200 or more acres that serves the entire city.
- (10) MEDIAN FAMILY INCOME means the United States Census Bureau's most recent American Community Survey five-year estimate of median family income for all families within the applicable municipality.
- (11) MULTI-FAMILY means a residential use other than a detached single-family or two-family dwelling. This use also includes hotel and motel rooms ordinarily used for sleeping.

- (12) NEIGHBORHOOD PARK means a park of two to thirty acres with a one-mile service area.
 - (13) 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).
 - (14) POCKET PARK means a park of no more than two acres with a one-quarter mile service area.
 - (15) SINGLE-FAMILY means a residential use consisting of detached single-family or two units.
- (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, Subchapter B, Division 5 (*Planned Unit Developments*).

§ 25-1-602 SINGLE-FAMILY DEDICATION OF PARKLAND.

- (A) For a development proposing single-family uses, parkland dedication will be satisfied by the dedication of suitable land for park and recreational purposes in accordance with this section or by payment of a fee in-lieu of dedication under Section 25-1-606 (*Single-Family Fee In Lieu of Parkland Dedication*).
- (B) The following formula will apply to determine the amount of parkland dedication required:

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

- (C) In calculating the amount of parkland to be dedicated, the number of residents per unit is based on density as follows:

Density Classification	Residents Per 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

- (D) If the density of a single-family 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 25-1-606 (*Single-Family Fee In Lieu of Parkland Dedication*).

- (E) 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 greater than 15% off the gross site area, up to the amount required under Subsection (B) 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 greater than the 15% if gross site area, up to the lesser of:
 - (i) the amount required under Subsection (B) 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 (B) due to the cap imposed by this subsection, the director shall require payment of a fee in-lieu of dedication under Section 25-1-606 (*Single-Family Fee In Lieu of Parkland Dedication*) for the remaining undedicated land.

§ 25-1-603 MULTI-FAMILY DEDICATION OF PARKLAND.

- (A) For a development application proposing multi-family uses, the director shall determine how the applicant will satisfy applicable parkland dedication requirements. The director may require the applicant to:
 - (1) dedicate land that meets the criteria in 25-1-604 (*Standards for Dedicated Parkland*) as parkland;
 - (2) pay a parkland dedication fee under Section 25-1-608 (*Multi-Family Parkland Dedication Fee*); or
 - (3) dedicate land that meets the criteria in 25-1-604 (*Standards for Dedicated Parkland*) as parkland and pay a reduced parkland dedication fee calculated under Section 25-1-608 (*Multi-Family Parkland Dedication Fee*).

- (B) In determining how an applicant will satisfy their parkland dedication requirements under this article, the director shall consider whether the development:
- (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) Subject to Subsection (D), if the director is requiring an applicant to satisfy their parkland dedication requirements entirely through land dedication, the following formula will apply to determine the amount of land required:
- $$[\# \text{ of multifamily units} \times .005] + [\# \text{ of hotel/motel rooms} \times .004] = \text{Acres of parkland}$$
- (D) The amount of land required to be dedicated may not exceed 10% of gross site area of the development.
- (E) If a development application proposes both multi-family and commercial uses, the amount of land dedication required is based on a prorated portion of the land proposed for the multi-family use.

§ 25-1-604 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 Parks and Recreation Long-Range Plan, the Environmental Criteria Manual, and the Parkland Dedication Operating Procedures.
 - (4) If an applicant is proposing multifamily uses, the parkland shall not be encumbered with restrictions that will negatively impact the parkland's ability to be used for recreational purposes with park amenities unless:
 - (a) there is no feasible and prudent alternative land available for parkland dedication as determined by the director; and
 - (b) the land will provide a critical greenbelt or trail connection with sufficient recreational opportunities.
- (B) The director shall determine whether land offered for dedication complies with the standards for dedication under Subsection (A) and may require a subdivision or site plan applicant to provide information deemed necessary to determine compliance.
- (C) If an applicant is proposing single-family uses, then the director may allow land that does not otherwise meet the standards under Subsection (A) to be dedicated as parkland if the land meets the requirements of this subsection.
- (1) 50 percent of acreage in the 100-year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this article if any adjoining land within the 25-year floodplain is also dedicated as parkland. The land within the 25-year floodplain may not be credited toward fulfilling the requirements of this article, unless it complies with Subdivision 25-1-604(C)(2).
 - (2) Land identified on the Deficient Parkland Area Map may be accepted if the director determines that the land will provide recreational or educational opportunities for the surrounding community. If the director determines the land has recreational or educational opportunities, 50 percent of the acreage may be credited toward fulfilling the requirements of this article.

- (D) If land dedication is required for subdivision approval, 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*).
- (E) If land dedication is required for site plan approval, the area to be dedicated must be shown on the site plan as "Parkland Dedicated to the City of Austin". Unless the director has deferred the land dedication until the time of issuance of a certificate of occupancy under Subsection (F), the applicant shall dedicate the parkland required by this article to the City by deed or easement before the site plan is released.
- (F) The director may defer the land dedication until the time of issuance of a certificate of occupancy if the land proposed to be dedicated is necessary for the construction of the proposed development and the applicant will restore the parkland. If the director authorizes the deferral of land dedication until this subsection, the development shall not receive any type of certificate of occupancy, temporary or permanent, until the land has been dedicated.
- (G) For a building permit that is required to dedicate parkland the area must be dedicated in a deed or easement to the City. The applicant shall dedicate to the City all parkland required by this article before a building permit is issued.
- (H) The 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.

§ 25-1-605 PRIVATE PARKLAND.

- (A) The director may allow up to a 100 percent credit toward fulfilling the requirements of:
 - (1) Section 25-1-602 (*Single-Family Dedication of Parkland*) or Section 25-1-603 (*Multi-Family Dedication of Parkland*) for privately owned and maintained parkland that is available for use by the public and meets the standards of the Parkland Dedication Operating Procedures; and
 - (2) Section 25-1-607 (*Single-Family Parkland Development Fee*) for recreational facilities that are located on privately owned and maintained parkland and available for use by the public if the development is proposing single-family development.
- (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 the director determines that the private parkland meets City parkland standards.
- (C) For an application proposing single-family development, 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 25-1-606 (*Single-Family Fee In-Lieu of Parkland Dedication*) and the development fee required under Section 25-1-607 (*Single-Family 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, an access easement to the parkland must be recorded prior to site plan or subdivision approval.

§ 25-1-606 SINGLE-FAMILY FEE IN LIEU OF PARKLAND DEDICATION

- (A) For single-family development, the director may require or allow an applicant to deposit with the City a fee in lieu of parkland dedication under Section 25-1-602 (*Single-Family 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 (*Single-Family Dedication of Parkland*); or
 - (b) the land available for dedication does not comply with the standards for dedication under Section 25-1-604 (*Standards for Dedicated Parkland*).
- (B) In determining whether to require dedication of land under Section 25-1-602 (*Single-Family 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) The amount of the fee in lieu of parkland is established in the annual fee schedule based on a recommendation by the director in accordance with this subsection.

(1) Single-Family Fee In Lieu of Dedication:

Density Classification	Fee In Lieu Amount
<i>Low Density:</i> Not more than 6 units per acre	2.8 × Land Cost Per Person
<i>Medium Density:</i> More than 6 and not more than 12 units per acre	2.2 × Land Cost Per Person
<i>High Density:</i> More than 12 units per acre	1.7 × Land Cost Per Person

(2) For purposes of determining the amount of single-family fee in lieu under Subdivision (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.

- (D) 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 (*Single-Family 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 (*Single-Family 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.

§ 25-1-607 SINGLE-FAMILY PARKLAND DEVELOPMENT FEE

- (A) Except as provided in Subsection (C), an applicant proposing single-family development must pay a parkland development fee as a condition to subdivision or site plan approval 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) 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	$1.7 \times$ Park Development Cost Per Person

- (2) For purposes of determining the parkland development fee under Subdivision (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.

- (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.

§ 25-1-608 MULTI-FAMILY PARKLAND DEDICATION FEE

- (A) For purposes of determining the amount of a parkland dedication fee required for approval of a development permit proposing multi-family development, City Council has designated all the land within its municipal boundaries into geographic areas via separate ordinance. These designations may be modified as set out under state law.

- (B) The dwelling unit factor shall be:
- (1) .005 for multifamily units; and
 - (2) .004 for rooms in a hotel or motel ordinarily used for sleeping.
- (C) The density factor shall be:
- (1) one for the suburban area;
 - (2) four for the urban area; and
 - (3) forty for the central business district area.
- (D) Every 10 years, the City will use the average land value for each geographic area calculated by the applicable appraisal district. For the years in which the applicable appraisal district does not calculate the average land value, the City shall calculate the average land value for each geographic area by multiplying the previous year's average land value for each geographic area by one plus the average CPI for each month of the previous year.
- (E) If the director has determined that an applicant will satisfy their parkland dedication requirements entirely by paying a parkland dedication fee, the dollar amount required is calculated using the following formula:

$$\frac{\{[(\# \text{ of multifamily units}) \times .005] + [(\# \text{ of hotel/motel rooms}) \times .004]\} \times (\text{Avg Land Value of Geographic Area})}{\text{Density Factor}}$$

- (1) First, add the product of the number of multifamily units proposed to be developed by .005 and the product of the number of hotel and motel rooms ordinarily used for sleeping proposed to be developed by .004.
- (2) Then, multiply the sum calculated under Subdivision (E)(1) by the average land value for the geographic area where the development is located.
- (3) Finally, divide the number calculated under Subdivision (E)(2) by the applicable density factor.

- (F) If the director has determined that an applicant is satisfying their parkland dedication requirements through dedicating land and paying a parkland dedication fee, the dollar amount of parkland dedication fee owed is calculated using the following formula:

[Parkland dedication fee per Subsection (E)] – [(Applicable land value) x (# of acres)]

- (1) First, calculate the amount of fee using the formula described in Subsection (E).
 - (2) Then, subtract the product of the land value applicable to the land and the number of acres dedicated from the total amount of the parkland dedication fee.
- (G) If the applicant is dedicating land and paying a reduced fee, the applicant will only be required to dedicate for development approval an acreage amount that has a land value that does not exceed the amount of parkland dedication fee calculated under this section. Additionally, the acreage amount shall not exceed 10% of gross site area of the development.
- (H) If there is a remaining amount of parkland dedication fee after subtracting the land value of the acreage required to be dedicated as parkland, the applicant may choose to construct recreational facilities on the future parkland in lieu of paying the remaining parkland dedication fee amount. The recreational facilities must be shown on the subdivision or site plan application and constructed before the land is dedicated.

§ 25-1-609 FEE PAYMENT AND EXPENDITURE.

- (A) Payment of a fee required under Section 25-1-606 (*Single-Family Fee In-Lieu of Parkland Dedication*) or Section 25-1-607 (*Single-Family 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) Payment of a parkland dedication fee required under Section 25-1-608 (*Multi-Family Parkland Dedication Fee*) shall be paid prior to issuance of a certificate of occupancy.
- (C) The director shall place fees paid under Section 25-1-607 (*Single-Family Parkland Development Fee*) into a separate fund than fees paid under Section 25-1-606 (*Single-Family Fee In-Lieu of Parkland Dedication*) and Section 25-1-608 (*Multi-Family Parkland Dedication Fee*). All fees collected shall be spent consistent with the requirements of this subsection.
- (1) Except as provided in Subsection (C)(2), the director shall use fees paid under Section 25-1-606 (*Single-Family Fee In Lieu of Parkland Dedication*) and Section 25-1-608 (*Multi-Family Parkland Dedication Fee*) solely to acquire land or easements for park purposes that will benefit residents of the development for which the fees are assessed and are located within a service area designated by the director under the Parkland Dedication Operating Procedures.
- (2) The director may use fees paid under Section 25-1-606 (*Single-Family Fee In Lieu of Parkland Dedication*) and Section 25-1-608 (*Multi-Family Parkland Dedication Fee*) and consistent with the purposes described in Subsection (C)(3) if, after one year from the date the fees are collected for expenditure, the director determines that land which meets the requirements of Section 25-1-604 (*Standards for Dedicated Parkland*) is unavailable for purchase within the service area for which the fees were assessed.
- (3) The director shall use fees paid under Section 25-1-606 (*Single-Family Parkland Development Fees*) to acquire and develop recreational amenities that will benefit residents of the development for which the fees are assessed and are located within a service area designated by the director under the Parkland Dedication Operating Procedures. If, after one year from the date the single-family parkland development fees are collected for expenditure, the director determines there are no longer any parks within the service area for which fees were assessed that need new recreational facilities, then the parkland development fees can be used to acquire land or easements for park purposes that will benefit residents of the

development for which the fees are assessed and are located within a service area designated by the director under the Parkland Dedication Operating Procedures.

- (D) The City shall expend a fee collected under this article within five years from the date the fees are appropriated for expenditure by the director. This period is extended by five years if, at the end of the initial five-year period, less than 50 percent of the residential units within a subdivision or site plan have been constructed.
- (E) If the City does not expend a fee payment by the deadline required in Subsection (D), 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 or parkland dedication fee 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 (D).
 - (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.

§ 25-1-610 PARKLAND DEDICATION DETERMINATION

- (A) An applicant may make a written request to the director asking for a formal determination of the amount of parkland dedication that will be required to obtain approval for a proposed development on their property.
- (B) After receiving a written request for a parkland dedication determination, the director may request additional information from the requestor. Any additional information requested shall be:
 - (1) public and readily available; and

- (2) necessary for the director to provide a parkland determination.
- (C) The director shall respond in writing to a request for a parkland dedication determination within 30 days after receiving a complete application.
- (D) Except as provided in Subsection (E), a parkland dedication determination issued under this section is valid for the property that is the subject of the determination for a period that is the lesser of
 - (1) the time between the date of the determination is issued and the date a development application is filed that uses or relies on the determination; or
 - (2) two years.
- (E) A requestor can void the applicability of a parkland dedication determination to their property by providing written notice to the director.

§ 25-1-611 APPEAL

- (A) A landowner or an applicant authorized by the landowner may appeal the director's decision on any element of the parkland dedication ordinance, including amount, orientation, or suitability, as that element applies to the landowner's property to the Planning Commission consistent with the procedures in Article 7, Division 1 (*Appeals*).
- (B) An applicant may appeal the Planning Commission's determination to council.
- (C) The Planning Commission or council shall uphold, reverse, or modify an appeal not later than the 60th date after the appeal is filed with the commission or council.

§ 25-1-612 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 (*Adoption of 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 25-1-609 (*Fee Payment and Expenditure*) for use of a fee in-lieu of parkland dedication, parkland development fee, and parkland dedication fees;
 - (b) general standards for dedicated parkland under Section 25-1-604 (*Standards for Dedicated Parkland*);
 - (c) methodology for determining:
 - (i) parkland cost factor and park level-of-service under Section 25-1-606 (*Single-Family Fee In-Lieu of Parkland Dedication*); and
 - (ii) park development cost factor and facilities level-of-service under Section 25-1-606 (*Single-Family 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.

PART 3. City Council waives the requirements regarding initiating Land Development Code amendments in City Code Section 25-1-501 (*Initiation of an Amendment*).

PART 4. This ordinance takes effect on January 1, 2024.

PASSED AND APPROVED

November 30, 2023

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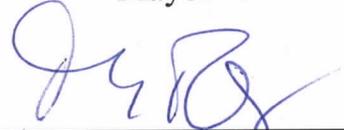
Kirk Watson
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Myrna Rios
City Clerk