

Sec. 21.9.10. - Park and Open Space Dedication Requirements.

A. *Purpose.*

1. The purpose of this section is to provide for the adequate provision of parkland and open space to meet the needs of a growing City population; for improvements to existing parkland; for establishment, maintenance and operation of a Parkland Dedication Fund; establish requirements and procedures for governing required dedications of parkland or improvements to existing parkland by subdividers of land; and for cash payments-in-lieu of land by subdividers of land in certain cases.
2. It is hereby declared by the City Council that recreational areas in the form of parks and open spaces are necessary and for the public welfare and that the only adequate procedure to provide for parkland and park improvements is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land. It is the policy of the City to require subdividers of residential subdivisions and lots to provide for parkland and park facilities at the time of development approval in proportion to the need for such improvements created by the developments and in proportion to the benefits received from contribution of such facilities.

B. *Applicability.* The parkland dedication and park development requirements of this section shall be applicable to every residential subdivision developed under the provisions of this UDC, whether such subdivision consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land, within the City limits or the City's ETJ.

C. *Submittal Requirements.*

1. Prior to Submittal of a Subdivision Master Plan or Preliminary Plat, a General Parks Plan shall be submitted and shall contain, at a minimum, the following information:
 - a. location and size of any proposed parks to be dedicated to the public or to be retained as private parkland;
 - b. a statement of the suitability of the parkland in meeting the criteria in subsection H. of this section;
 - c. a general park development plan including any proposed improvements; and
 - d. a phasing plan.
2. Prior to submittal of a Final Plat, a Detailed Parks Plan shall be submitted and shall contain, at a minimum, the following information:
 - a. location and size of the proposed park;
 - b. a statement of the suitability of the parkland in meeting the criteria in subsection H. of this section; and
 - c. a detailed plan of any proposed improvements, including cost.
3. The Director of Parks, Recreation and Community Services shall review the General Parks Plan and make a recommendation to the Planning and Zoning Commission prior to approval of a Subdivision Master Plan or Preliminary Plat. Recommendations should be based upon the Comprehensive Land Plan and/or the Parks and Open Space Master Plan as adopted by the City, and the standards and provisions contained herein regarding the amount and location of park land and fees-in-lieu of park land dedication.
4. All parkland to be dedicated to the City shall meet the suitability requirements of section 21.9.10.H.

D. *Parkland Dedication Requirements.*

1. *Land Dedication.* A final plat establishing a residential (including multifamily) subdivision or commercial or manufacturing district either within the City or within the ETJ of the City shall

contain the dedication of an area of land for park purposes meeting the requirements set out in this section, or a notation signed by the Director of Parks, Recreation and Community Services of receipt of an approved cash payment-in-lieu of land. The subdivider of a residential (including multifamily) subdivision or commercial or manufacturing district shall dedicate to the City developed parkland in the amount as established within the fee schedule adopted by the City Council. A proposed plat submitted for approval must:

- a. show the location and dimensions of the area proposed to be dedicated for parkland;
 - b. show the number of dwelling units to be located within the proposed residential subdivision (whether single or multi-family units) or LUEs in a commercial or manufacturing district;
 - c. tell whether all or any part of the property to be dedicated as a park is located in a special flood hazard area, as such areas are defined in this UDC; and
 - d. show the proposed streets and utilities to serve the parcel to be dedicated as parkland.
2. *Development of Areas Smaller Than Five (5) Acres.* The development of park areas smaller than five (5) acres for public park purposes is deemed to be impractical. If fewer than five (5) acres are proposed to be created by a plat, then prior to filing the plat, the subdivider shall be required to pay to the City the applicable cash payment-in-lieu of land. No plat showing a dedication of less than five (5) acres for a public park shall be approved by the Planning and Zoning Commission. While dedication of parkland to the City in an amount less than five (5) acres is deemed impractical, it is the City's policy to encourage the development of private parkland in accordance with subsection I below and provide credit for development of these private parklands accordingly.
 3. *Dedication Procedures.* The owner of property for a residential subdivision shall be required at final plat approval to dedicate parkland. Dedication of parkland shall be evidenced by a formal dedication on the plat to be recorded. The land so dedicated and conveyed shall not be subject to any reservations of record, encumbrances of any kind, or easements, which in the opinion of the City will interfere with or materially increase the cost of making such land available for parks or recreational purposes.
 4. *Development of Subdivision in Phases.* If a subdivision is to be developed in phases and the final platting of the park area to be dedicated is to be included in a future phase, then the subdivider shall be required to provide a notation on the plat which acknowledges that dedication of parkland to serve said subdivision will occur with the platting of future phases.
 5. *Right to Accept/Reject Land.* If the City determines that sufficient park area is already in the public domain within proximity of the proposed development, or if the recreation needs for the area would be better served by expanding or improving existing parks, the City has the right to accept the dedication or to refuse same and require a cash payment-in-lieu of land.
 6. *Compliance with Parks and Open Space Master Plan.* The City has adopted a Parks and Open Space Master Plan which outlines the necessity for parkland dedication and the types of improvements deemed appropriate for the City. The dedication and development of any parkland and the expenditure of any fees-in-lieu of dedication or development shall be in accordance with the Parks and Open Space Master Plan of the City.
- E. *Fee-in-Lieu of Land Dedication Requirements.*
1. *Right to Request Waiver of Dedication Requirements.* A subdivider obligated to make a dedication of land may request the City waive the required dedication of land, in whole or in part, and to accept a cash payment-in-lieu of land dedication. Any request for a waiver to the land dedication requirements shall be subject to review and recommendation by the Parks and Recreation Advisory Board and final approval by the Planning and Zoning Commission.
 2. *Required Fee-in-Lieu of Land Dedication.* Any subdivider who is required to make a cash payment-in-lieu of land dedication or who is granted a waiver in accordance with section 21.9.10.1. above, shall make a cash payment-in-lieu of land in accordance with this section. The amount of such cash payment-in-lieu of land shall be calculated by multiplying the number of dwelling units proposed to be established by the plat times the amount per dwelling unit as

established in the fee schedule set from time to time by the City Council. A cash payment-in-lieu of land shall be made prior to the recordation of the final plat.

- F. *Parkland Improvement Agreement.* The property owner or applicant may request to defer the obligation to dedicate parklands and/or develop parklands until after a final plat recordation. The request shall be submitted in writing and specify what is requested for deferral. Deferral of the obligation to dedicate parkland and/or develop parklands shall be conditioned on execution of an Improvement Agreement and provision of sufficient security, pursuant to Section 21.4.15.F, Improvement Agreements. The City Manager or his/her designee may approve or deny the request to defer obligations to dedicate parkland dedication and/or develop parklands.
- G. *Park Development.*
1. A subdivider who elects to dedicate parkland in accordance with section 21.9.10.D. above shall improve all dedicated public parkland with improvements approved by the Parks and Recreation Advisory Board and the City Parks and Recreation Department. Design, specification, and construction of the improvements shall be subject to review and approval by the City. Construction of the improvements must be completed within one (1) year of the approval of the final plat of the subdivision. No final plat shall be recorded for any subdivision in which completion of the required improvements has not been accepted by the City; however, in the event that a subdivider requests that a final plat be approved prior to completion of the required improvements, surety for construction of improvements may be provided in the same manner as required of other subdivision- and site-related construction.
 2. In-lieu of constructing the improvements required in section 21.9.10.F.1. above, the subdivider may elect to make a cash payment-in-lieu of construction to the City to meet the City's current or future recreational needs. If a developer who has dedicated land in accordance with section 21.9.10.D. above elects to make a fee-in-lieu of payment for park development, the City shall utilize those funds for improvement of parkland within the subdivision in which the funds are collected. In the event there are remaining funds after development of said parkland, the City may utilize the remaining funds to complete improvements in any public park within the City.
 3. If the subdivider elects to pay fees-in-lieu of parkland dedication in accordance with section 21.9.10.E. above, then the subdivider shall make a cash payment-in-lieu of construction to the City for the required improvements in addition to the fees paid-in-lieu of dedication. Cash payments made in accordance with this paragraph may be utilized to complete improvements in any public park within the City.
 4. Cash payments-in-lieu of required improvements shall be calculated by multiplying the number of dwelling units times the price per dwelling unit as established in the fee schedule set from time to time by the City Council.
- H. *Parkland Dedication Fund.*
1. *Special Fund.* The City shall reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of parkland dedication or fee-in-lieu of parkland development in a separate account from the general funds of the City. This fund shall be known as the Parkland Dedication Fund.
 2. *Deposit/Expenditure of Parkland Dedication Fund.* The City shall deposit sums collected as cash payments-in-lieu of land and cash payments-in-lieu of improvements in the Parkland Dedication Fund. The City shall expend such funds collected for the acquisition of land or for the improvement of existing parks on a first in, first out basis.
 3. *Records and Method of Expenditure.* The City shall maintain records detailing the receipts and expenditures for the Parkland Dedication Fund. All funds deposited as credit for fee-in-lieu of parkland dedication may be utilized for the acquisition and/or development of parkland within the City. All funds collected as fee-in-lieu of parkland development shall be utilized for the development of parkland in accordance with section 21.9.10.F. above.
- I. *Parkland Design Criteria.*

1. *Location.* Any land to be dedicated to meet the requirements of this section shall be reasonably located and adaptable for use as parkland and/or recreation facility, consistent with the most recent edition of the Comprehensive Land Plan and/or Parks and Open Space Master Plan as adopted by the City Council.
2. *Land Suitability.* The Parks and Recreation Advisory Board shall make recommendations to the Planning and Zoning Commission regarding the suitability of proposed park land. The location, access, size, shape, topography, natural drainage, utilities, parking facilities, and wooded areas and other vegetative cover of the parcel or tract of land to be dedicated shall be appropriate for public parks and recreation purposes. All such park land shall be designated and located so as to satisfy the requirements of this section.
3. *Usable Land.* At least fifty percent (50%) of proposed parkland dedication site shall be level, well drained and suitable for open play. Such land shall be located outside of any one hundred (100) year floodplain or any other special flood zone identified on the most recently approved FEMA FIRM map and shall not exceed five percent (5%) slope.
4. *Access.* Access to parkland designated on a subdivision plat shall be provided by the dedication of at least 200 feet of street frontage in a manner satisfactory to the City, preferably at the corner of two (2) intersecting streets. When the land abutting the designated parkland is developed, the subdivider of such abutting land shall furnish and pay for all paving of all abutting street frontage.
5. *Utilities.* Potable water and wastewater connections shall be readily available at the park site with water and wastewater lines located along the street frontage. The applicant must demonstrate to the satisfaction of the City that sufficient living unit equivalents that are not otherwise committed to other property are available to serve the park within these water and wastewater lines.
6. *Drainage Improvements.* Any detention ponds and/or other drainage facilities to be constructed in areas that are to be dedicated as parkland must be designed and constructed to also allow for recreational use. The subdivider may be required to demonstrate that the design, placement and construction of such ponds meet the requirements of the City.
7. *Floodplain.* The following standards shall apply to all land proposed for dedication or parkland which is located in a FEMA designated floodplain or other special flood hazard area.
 - a. *Amount of Credit.* Every acre of proposed dedicated parkland located within the floodplain or other special flood hazard area shall count as one-half ($\frac{1}{2}$) acre of land towards the total parkland dedication requirement.
 - b. *Criteria for Parkland.* Floodplain areas will be considered for eligibility as land to be dedicated based on the following criteria:
 - i. The floodplain area is easily accessible and has adequate street frontage.
 - ii. There has been minimal alteration of the natural character of the waterway and the floodplain area. Some improvements are necessary for City access and maintenance.
 - iii. In no case will floodplain areas be accepted which are less than one hundred feet (100') in width.
 - iv. The area's configuration and topography is suitable for the placement of low impact facilities such as playgrounds, picnic facilities and open play fields.
8. *Disturbed Area.* Any disturbed parkland shall be restored and the soil stabilized by a vegetative cover by the subdivider.
9. *Disclosures.* Prior to dedication of parkland, the subdivider shall make full disclosure of the presence of any hazardous substances and/or underground storage tanks (USTs) of which the subdivider has knowledge. The City, at its discretion, may proceed to conduct such initial environmental tests and surveys on the land as it may deem appropriate, and the subdivider shall grant to the City and its agents and employees such reasonable access to the land as is necessary to conduct such surveys and tests. If the results of such surveys and tests indicate a reasonable possibility of environmental contamination or the presence of USTs, the City may

require further survey and tests to be performed at the subdivider's expense as the City may deem necessary prior to its acceptance of the dedication, or in the alternative, the subdivider may be required to identify alternative property or pay the fees-in-lieu of such parkland dedication.

10. *Trash and Debris.* The park site shall be free of trash and debris. If the condition of the dedicated parkland is disturbed during construction of subdivision improvements then the subdivider shall be responsible for returning the dedicated land to its previous condition prior to or at the time of final plat filing. The public improvements to be constructed per the applicable subdivision plat will not be accepted by the City until such time that the above conditions have been met.
11. *Areas not Meeting the Minimum Requirements.* In the event that areas proposed for dedication do not meet the grade, slope, or other requirements for parkland dedication found in this section, but are known to contain sensitive environmental features, the City may, at its discretion and after review by the Parks and Recreation Advisory Board, modify the standards of this section subject to the following limitations:
 - a. that such areas shall provide recreational or educational opportunities for the surrounding community in-lieu of parkland dedication;
 - b. that such areas shall be given a partial credit against the requirement of land dedication and/or payment of fees; and
 - c. that such areas shall meet any additional standards deemed necessary by the Planning and Zoning Commission after a recommendation by the Parks and Recreation Advisory Board, pertaining to the dedication of land containing sensitive environmental features.

J. *Private Parks.*

1. *Private Parkland Required.* It is the intent of the City to provide for adequate areas of parkland within every subdivision as deemed practical by the City. All residential subdivisions developed after the effective date of this UDC that do not dedicate land in accordance with Paragraph D above, shall be required to dedicate an area as private parkland or open space. The amount of parkland dedicated and amenities provided shall be approved by the Parks and Recreation Advisory Board, but shall generally be as follows:
 - a. 435.6 square feet of private open space (which equates to one acre per 100 lots) for the first 200 single family residential lots
 - b. 217.8 square feet of private open space (which equates to one-half acre per lot) for every additional single family residential lot over 200 lot.
 - c. Private open space shall not be significantly encumbered by utility easements and may not be located within drainage easements.
 - d. open space being provided must generally be at least one-half acre in size.
 - e. open space shall be located so as to be easily accessible by lots within the subdivision.
2. *Credit for Private Parkland.* Up to fifty percent (50%) in area of a subdivision's total parkland dedication requirement may be satisfied through the dedication of a private park within the subdivision. Up to fifty percent (50%) of the parkland development fee may be satisfied through the development of a private park within the subdivision.
3. *Maintenance of Private Parks.* The subdivider must submit a condominium declaration, homeowner's agreement or similar document which establishes the private ownership and maintenance responsibility of any private park areas together with a mechanism for funding the maintenance of the park established to meet the requirements of this section. In addition, a plat note must be included on the preliminary plat and final plat stating the ownership and maintenance responsibility of all private park areas.
4. *Requirement of Continued Use.* A restrictive covenant shall be recorded at the time of the recording of the plat, which covenant shall run with the land subdivided. The covenant shall

restrict use of private parks and facilities to park and recreational purposes and must be submitted for approval by the City prior to final plat acceptance.

5. *Security for Performance.* The City may require financial assurances from the subdivider that the private park will be developed and completed, with assurances that a failure by the subdivider to timely complete the improvements to the park shall result in dedication of the private park to the City and the proceeds of the financial assurances as offered become the property of the City for use in completing the park.

(Ord. No. [17-S-41](#), § 1(Exh. A), 10-24-2017)