

CHAPTER 12 SUBDIVISION REGULATIONS

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ORDINANCE 1240 PARK LAND DEDICATION REQUIREMENTS

Section 1240.01: PURPOSE. All developments or landowners requesting platting or replatting of land shall convey to the City, or dedicate to the public use, a percentage of such proposal for the public use as parks, recreational facilities, playgrounds, trails, wetland, or open space. The City, at its discretion, may accept cash in lieu of land to be dedicated, or a combination of land and cash dedication.

Section 1240.02: DEDICATION REQUIREMENTS. As a prerequisite to any subdivision approval, and at the sole determination of the City, applicants and/or Developers shall dedicate land for parks, playgrounds, public open spaces, trails, or other public uses and/or shall make a cash contribution to the City's park dedication fund roughly related to the anticipated effect of the subdivision on the City's park and trail system. The amounts listed in this section are the City's best estimate of the dedication or cash contribution needed to offset the effect of the subdivision on the park and trail system. The requirement may also be met with a combination of land and cash or land, cash, and improvements, if approved by the City Council.

Subd. 1. Land Dedication Requirements.

- A. Residential. In all new residential subdivisions, 10% of the area subdivided shall be dedicated for public space. This 10% shall be calculated on the gross area. In the City's sole discretion, the 10% may be calculated on the net area, which shall be the gross area of the subdivided property minus the area of wetlands, lakes, and rivers below the ordinary high-water mark. The land dedicated for public use shall be in addition to property dedicated for streets, alleys, easements, storm water ponding, or other public ways. No areas may be dedicated for public use until such areas have been approved by the City Council as suitable and necessary for the public health, safety, and general welfare.

- B. Non-Residential. In all new commercial or industrial subdivisions 5% of the area subdivided shall be dedicated for public space. This 5% shall be calculated on the gross area. In the City's sole discretion, the 5% may be calculated on the net area, which shall be the gross area of the subdivided property minus the area of wetlands, lakes, and rivers below the ordinary high-water mark. The land dedicated for public use shall be in addition to property dedicated for streets, alleys, easements, storm water ponding, or other public ways. No areas may be dedicated for public use until such areas have been approved by the City Council as suitable and necessary for the public health, safety, and general welfare.

Subd. 2. Cash Requirements.

- A. Amount of Payment Required. When a subdivision is proposed, at the option of the City, the Developer may pay a cash fee in lieu of such land dedication. The cash fee shall be a payment to the City of a sum equal to the percentage listed in

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Section 9.02, Subdivision 1 of the undeveloped value of the land to be subdivided. The undeveloped land value shall be the value of the land at the time of Final Plat approval.

The determination of the value of the land for purposes of park dedication shall be determined jointly by the City Council, or its agent, and the Developer. If the City Council and the Developer cannot agree on the land value, then the land values shall be established on the basis of the average of two independent appraisals by professional appraisers. If the City and the Developer cannot agree on the appraisers, the City and the Developer shall each appoint one. The cost of the appraisals shall be paid by the Developer.

- B. Timing of Payment. Cash contributions shall be paid prior to the City's signature of and release of the Final Plat, unless otherwise specified in the Development Agreement. For subdivisions that do not require a Development Agreement, the cash contribution shall be paid before the City releases the signed approval of the subdivision for recording.

Subd. 3. Cash and Land Combination. The City, upon consideration of a particular type of development, may require that a lesser parcel of land should be dedicated due to particular features of the development. In such cases, a cash contribution shall be required in addition to the land dedication to ensure that compensation is received for the full amount of the impact on the City's park and trail system. The amount of cash required shall be calculated by determining the percentage of land donated and applying the shortfall to the amount of cash that would have been required had no land been donated.

The formula is outlined as follows:

$$\begin{array}{rclcl} \text{Percentage of} & & \text{Total Cash} & & \text{Balance of} \\ \text{Land Not} & & \text{Contribution for the} & = & \text{Cash} \\ \text{Dedicated} & \times & \text{Entire Subdivision} & & \text{Contribution} \end{array}$$

For example, in a residential subdivision, if only a 6% rather than a 10% land dedication requirement was made, the City would calculate the amount of the cash dedication that would have been required for the entire subdivision and would take 40% of that amount (since 60% of the land dedication requirement was made). If there were 12 acres valued at \$15,000 an acre, the cash requirement (assuming that no land was dedicated) would be \$18,000 (12 acres x \$15,000/acre x 10%). Since 60% of the land dedication requirement was met, the City would require 40% of the cash dedication requirement or \$7,200.00 (\$18,000 x 40%) to make up the difference and fully compensate the City for the impact of the proposed subdivision.

Subd. 4. Improvement of Land.

- A. The City shall identify land needed for park or recreational uses and such land shall be suitable for park or recreational development. In the event dedicated park lands are unsuitable for immediate use because of topographic or other limitations, the Developer shall grade and seed park lands for such suitable use.

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- B. In lieu of the full land or full combination of land and cash contribution, the Developer may agree to make certain improvements to the donated land as required and approved by the City, including but not limited to, paving or the installation of park equipment such as playground equipment, basketball courts, tennis courts, etc. in an amount equal to the land or cash required but not contributed. Such improvements shall be included in the Development Agreement.

Subd. 5. Credit for Private Open Space. Where private open space for park and recreational purposes is provided in a proposed subdivision, such areas may be used for partial credit, at the discretion of the City Council, against the requirement of dedication for park and recreational purposes, provided the City Council finds it is in the public interest to do so. No credit shall be given unless at least the following minimum factors are satisfied:

- (i) The land area must be available for use, without preference, by all of the residents of the proposed subdivision;
- (ii) The required setbacks must not be included in the computation of such land area;
- (iii) The use of the private open space must be restricted for park and recreational purposes by recorded covenants or declarations which run with the land in favor of the owners of the property within the subdivision and cannot be eliminated without the prior approval of the City Council;
- (iv) The proposed private open space must be of sufficient size, shape, location, and topography for park and recreational purposes or must contain unique natural features that are important to be preserved; and
- (v) The proposed open space must reduce the demand for public recreational facilities to serve the development.

Subd. 6. Planned Unit Development (PUD).

- A. A Planned Unit Development with mixed land uses shall make cash and/or land contributions in accordance with this Section based upon the percentage of land devoted to various uses.
- B. Land area conveyed or dedicated shall be in addition to and not in lieu of open space requirements for PUDs.

Subd. 7. Different Number of Lots and Units Or Additional Land. If, as a result of resubdividing the property, the number of lots is increased, or if land outside of the previously recorded plat is added then the park dedication or per-lot cash fee must apply only to the net increase of lots.

Subd. 8. Minor Subdivision. A park dedication or cash contribution shall be required in the case of a minor subdivision for each vacant lot according the schedule set forth in Section 9.02, subd. 1 through 4.

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Subd. 9. Exemption: Same Number of Lots and Units. Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements.

Subd. 10. Dedicated Cash. Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

Section 1240.03: TRAILS. The Developer shall be required to construct trails in a manner determined by the City. The Developer shall be required to construct trails on at least every other street of the property to be developed and to connect to existing or planned City trails.

Section 1240.04: DETERMINING LAND TO BE DONATED.

Subd. 1. Land Suitability Factors. Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreational areas shall include size, shape, topography, geology, hydrology, tree cover, access and location, and future park needs pursuant to the Comprehensive Plan. Wetlands, ponding areas, and drainage ways shall not be eligible for park dedication credit. Park land to be dedicated shall be above the ordinary high-water level. Grades exceeding 12% or areas unsuitable for park development will not be considered for dedication unless specifically accepted by the City Council for an intended public purpose. Land with trash, junk, pollutants, and/or unwanted structures is not acceptable.

Subd. 2. Public Land Designated in Comprehensive Plan. When a proposed park, playground, trail, open space, recreation area, school site, or other public ground (i) is shown in the Comprehensive Plan, (ii) is located in whole or in part within a proposed plat, (iii) exceeds the City's land dedication requirements, and (iv) the applicant elects not to dedicate the excess land, the City, Board of Education, or County or State Agency may consider acquiring the excess land through purchase or other means.

Nothing in this section shall be construed to require the City to accept land shown in the Comprehensive Plan as proposed park or public land, in satisfaction of the land dedication requirements required herein. Land shown on the Comprehensive Plan for park or public use that does not satisfy the land suitability factors required in Section 9.04, subd. 1, shall not count toward the land dedication requirements.

Subd. 3. Approval Procedure. The applicant shall confer with city staff, Consultants, and the Park Board at the time of Concept Plan and prior to the Preliminary Plat public hearing to secure a recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds, trails, or other public property. The Preliminary Plat shall show the location and dimensions of all areas to be dedicated in this manner. Such contribution requirement recommendations will be sent to the Planning Commission for review and comment and subsequently to the City Council for approval.

Section 1240.05: CALCULATING DENSITY REQUIREMENTS. Land area conveyed or dedicated to the City shall not be used in calculating density requirements of the Zoning Ordinance.