

**ORDINANCE NO. 20070621-027**

**AN ORDINANCE AMENDING CHAPTERS 25-1 AND 25-4 OF THE CITY CODE AND REPEALING CHAPTER 25-2, SUBCHAPTER E, SUBSECTION 4.3.3.F, PARAGRAPH 5 OF THE CITY CODE RELATING TO PARKLAND DEDICATION; AND ESTABLISHING THE PARKLAND COST FOR EACH DWELLING UNIT.**

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

**PART 1.** Chapter 25-1 (*General Requirements And Procedures*) of the City Code is amended to add Article 14 to read:

**ARTICLE 14. PARKLAND DEDICATION.**

**§ 25-1-601 APPLICABILITY.**

- (A) Except as provided in Subsections (B) and (C), the parkland dedication requirements of this article apply to:
  - (1) residential subdivisions; and
  - (2) site plans with three or more dwelling units.
- (B) This article does not apply in the portion of the City's extraterritorial jurisdiction that is within Travis County. Parkland dedication for that area is governed by Title 30 (*Austin / Travis County Subdivision Regulations*).
- (C) The following are exempt from the requirements of this article:
  - (1) a plat with not more than four lots designated for a single-family residential use that may be approved without a preliminary plan;
  - (2) a resubdivision of land that does not increase the number of dwelling units or lots by more than three;
  - (3) a subdivision for which a preliminary plan was approved after June 30, 1984 and before July 8, 1985;
  - (4) a subdivision or site plan within a municipal utility district that has a consent agreement and land use plan approved by the City that provides for the dedication of parkland or recreational facilities or the payment of fees instead of dedication of the parkland or facilities; and

- (5) a subdivision or site plan for which parkland was previously dedicated or payment made under this title, except for the dwelling units or lots that exceed the number for which dedication or payment was made.

**§ 25-1-602 DEDICATION OF PARKLAND REQUIRED.**

- (A) A subdivider or site plan applicant shall provide for the parkland needs of the residents by the dedication of suitable land for park and recreational purposes under this article.
- (B) For a subdivision, the area to be dedicated must be shown on the preliminary plan and the plat and included in the dedication statement. The subdivider shall dedicate to the City all parkland required by this article when a plat is approved.
- (C) For a site plan, the area to be dedicated must be shown on the site plan and in a deed to the City. The applicant shall dedicate to the City all parkland required by this article before the site plan is approved.
- (D) The amount of parkland required to be dedicated to the City is five acres for every 1,000 residents, as determined by the following formula:

$$\frac{5 \times (\text{Number Of Units}) \times (\text{Residents Per Unit})}{1000} = \text{Acres of parkland}$$

- (E) In calculating the amount of parkland to be dedicated under this section, the number of residents in each dwelling unit is based on density as follows:

<u>Dwelling Units Per Acre</u>	<u>Residents In Each Dwelling Unit</u>
Not more than 6	2.8
More than 6 and not more than 12	2.2
More than 12	1.7

- (F) If the density of a 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) the developer may reduce the assumed density by restricting density in a restrictive covenant enforceable by the City and approved by the city attorney.
- (G) The subdivider 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 120<sup>th</sup> 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 120<sup>th</sup> 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.

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

- (A) Land to be dedicated as parkland must comply with the standards in the Comprehensive Plan, the Park and Recreation Action Plan, the Administrative Criteria Manual, and this section.
- (B) The director of the Parks and Recreation Department shall determine whether land offered for dedication complies with the standards for dedication.
- (C) Fifty percent of acreage in the 100 year floodplain that is dedicated as parkland may be credited toward fulfilling the requirements of this article if the adjoining land within the 25 year floodplain, if any, is also dedicated as parkland. The land within the 25 year floodplain may not be credited toward fulfilling the requirements of this article.
- (D) Land identified on the Critical Areas Map maintained by the Watershed Protection and Development Review Department that does not otherwise comply with the standards for parkland dedication may be accepted as dedicated parkland if the director of the Parks and Recreation Department determines that the land will provide recreational or educational opportunities for the surrounding community. In this event, 50 percent of the acreage may be credited toward fulfilling the requirements of this article.

**§ 25-1-604 PRIVATE PARKLAND.**

- (A) The director of the Parks and Recreation Department may allow up to a 50 percent credit toward fulfilling the requirements of this article for privately

owned and maintained park and recreational facilities that are for use by the public.

- (B) The director of the Parks and Recreation Department 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:
  - (1) the director of the Parks and Recreation Department determines that the private parkland meets City parkland standards; and
  - (2) the land owner agrees to dedicate the private parkland to the City when the City annexes the land for all purposes.
- (C) Private parkland excludes yards, setback areas, and open spaces required by this title.

#### **§ 25-1-605 PAYMENT INSTEAD OF LAND.**

- (A) The director of the Parks and Recreation Department may require a subdivider or site plan applicant to deposit with the City a cash payment or fiscal security instead of the dedication of parkland if:
  - (1) less than six acres is required to be dedicated; or
  - (2) the land available for dedication does not comply with the standards for dedication.
- (B) A subdivider must make the deposit before the subdivision may be approved, except that for the portion, if any, of the subdivision that requires a site plan, the subdivider may defer the deposit until after a site plan is filed.
- (C) A site plan applicant must make the deposit before the site plan may be approved.
- (D) The amount of the deposit is determined by multiplying the number of dwelling units by the parkland cost for each dwelling unit, excluding the affordable dwelling units. The determination is made on the date of the deposit using the most recent parkland cost for each dwelling unit. In this subsection:
  - (1) The number of dwelling units is:
    - (a) for a deposit made at the time of subdivision, calculated in accordance with Section 25-1-602 (*Dedication Of Parkland Required*); or

- (b) for a deposit made at the time of site plan, the number shown on the site plan.
- (2) The parkland cost for each dwelling unit is:
  - (a) based on a report by the city manager that analyzes of the costs of acquiring and developing parkland and determines the proportionate share of those costs attributable to new residential development;
  - (b) approved by council; and
  - (c) periodically reviewed by the city manager and council.
- (3) Affordable dwelling unit means a dwelling unit that is certified by the director of the Neighborhood Housing and Community Development Department as being reasonably priced under the S.M.A.R.T. Housing Program standards adopted by council resolution for rental or purchase by a household earning not more than 80 percent of the median family income for the Austin statistical metropolitan area.
- (E) A deposit must be placed in the City's Neighborhood Park and Recreation Improvement Fund. The deposit must be used for the acquisition or improvement of neighborhood parks that will benefit the residents of the subdivision or site plan and that are located in the service area defined by the Parks and Recreation Department.
- (F) The City shall expend a deposit within five years from the date it is received. This period is extended by five years if, at the expiration of the initial five year period, less than 50 percent of the residential units in the subdivision or on the site plan have been constructed.
- (G) If the City does not expend a deposit by the deadline described in Subsection (F), and the actual number of residential units constructed is less than the number assumed at the time the deposit was calculated, the owner may request a refund. The request must be in writing and filed with the director of the Parks and Recreation Department not later than 180 days after the expiration of the time period described in Subsection (F). A refund is calculated by multiplying the percentage of the reduction in the number of residential units times the amount of the deposit. A refund may not exceed the unexpended amount of a deposit.

**§ 25-1-606 SUBMITTAL REQUIREMENTS.**

- (A) The director of the Parks and Recreation Department may request that the subdivider or site plan applicant provide information relating to proposed parkland to determine whether the proposed parkland complies with this article.
- (B) A subdivider or site plan applicant shall provide the information requested under this section.

**PART 2.** Chapter 25-2, Subchapter E, Subsection 4.3.3.F, Paragraph 5 of the City Code is repealed, and the remaining paragraph renumbered accordingly.

**PART 3.** Chapter 25-4, Article 3, Division 5 (*Parkland Dedication*) of the City Code is repealed and replaced with a new Division 5 to read:

**Division 5. Parkland Dedication.**

**§ 25-4-211 PARKLAND DEDICATION.**

The platting requirement for parkland dedication is governed by Chapter 25-1, Article 14 (*Parkland Dedication*).

**PART 4.** In calculating a deposit under Section 25-1-605(B) (*Payment Instead Of Land*), the parkland cost for each dwelling unit is \$650. This dollar amount is based on a report by the city manager that analyzes the cost of parkland acquisition and development and determines the proportionate share of those costs attributable to new residential development. The city manager is instructed to prepare a similar report every three years that includes a recommendation for adjusting the dollar amount.

**PART 5.** This ordinance takes effect on July 2, 2007.

**PASSED AND APPROVED**

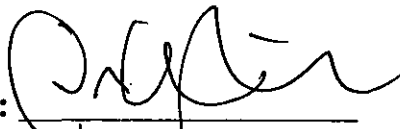
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Will Wynn  
Mayor

**APPROVED:**

  
David Alan Smith  
City Attorney

**ATTEST:**

  
Shirley A. Gentry  
City Clerk