

ARTICLE II. - PARK LAND DEDICATION

Sec. 38-50. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Develop (v) means the act of subdividing a parcel or tract of land and installation of community facilities in accordance with and as defined by these subdivision regulations.

Development (n) means a parcel or tract of land proposed for subdivision in accordance with and as defined by these subdivision regulations.

Park development means the development of a park site by construction of streets, drainage, utilities, and recreational improvements to serve a neighborhood park district.

Pro rata share of required dedication means the amount of land that shall be dedicated (or the acreage figure used to calculate cash in lieu of land donation) as prescribed within this article. The pro rata share of required dedication in a neighborhood park district shall be calculated as follows: pro rata share of required acreage dedication per new dwelling unit is the factor obtained when the 11-acre area of park is divided by the ultimate residential dwelling unit holding capacity for park district in which the unit is located.

Note: The total number of residential units which a neighborhood park district is projected to have when fully developed shall be determined by the "Impact Fee Land Use Assumptions" as set forth in table 1, park dedication acreage factor per dwelling unit, below.

Table 1. Park Dedication Acreage Factor per Dwelling Unit

Park District	Ultimate Dwelling Unit Holding Capacity	Dwelling Unit Dedication Factor (Acre)
1	457	0.024
2	1,212	0.009
3	1,398	0.008
4	1,295	0.008
5	879	0.013
6	1,227	0.009
7	2,450	0.004
8	1,194	0.009
9	1,822	0.006

10	436	0.025
11	1,110	0.010
12	1,343	0.008
13	989	0.011
14	2,780	0.004
15	1,256	0.009
16	347	0.032
17	2,774	0.004
18	687	0.016
19	1,057	0.010
20	1,174	0.009
21	1,212	0.009
22	1,178	0.009
23	1,775	0.006
24	2,115	0.005
25	490	0.022
26	966	0.011
27	2,079	0.005
28	2,418	0.005
29	2,219	0.005

30	973	0.011
31	994	0.011
32	561	0.020
33	1,875	0.006
34	2,050	0.005
35	3,004	0.004

Recreational improvements facilities means the park features set forth for a neighborhood park in the activity menu of the park plan. A uniform cost shall be prepared annually for these features and adopted by resolution by the city council. The dedication factor shall be applied to this cost to determine the pro rata share per new dwelling unit for recreational improvements facilities.

(Code 1982, § 24-42; Ord. No. 87-1, § II, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 03-29, § 1, 9-2-2003; Ord. No. 05-04, § 1, 1-18-2005; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-51. - Purpose.

- (a) This article is adopted to provide recreational areas in the form of neighborhood parks as a function of subdivision development in the city. This article is enacted in accordance with the home rule powers of the city, granted under the state constitution, in statutes of the state including, but not limited to, V.T.C.A., Local Government Code § 212.001 et seq. It is hereby declared by the city council that recreation areas in the form of neighborhood parks are necessary and in the public welfare, and that the only adequate procedure to provide for same 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 construction on vacant land or rebuilding structures on existing residential property.
- (b) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities, be a minimum of 11 acres, and be within convenient distances for a majority of the residents to be served thereby. Park districts are established by the official park plan for the city and shall be prima facie proof that any park located therein is within such convenient distance from any residence located therein. Primary cost of neighborhood parks shall be borne by the ultimate residential property owners, who, by reason of the proximity of their property to such parks, shall be the primary beneficiary of such facilities. Therefore, the requirements of this article are adopted to affect the purposes stated.

(Code 1982, § 24-41; Ord. No. 87-1, § I, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-52. - Impact fee land use assumptions.

The total number of residential units which a neighborhood park district is projected to have when fully developed shall be determined by the impact fee land use assumptions as set forth in table 1, park dedication acreage factor per dwelling unit which is on file with the city secretary's office.

(Code 1982, § 24-42; Ord. No. 87-1, § II, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 03-29, § 1, 9-2-2003; Ord. No. 05-04, § 1, 1-18-2005; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-53. - General requirement for SF-E, SF-1, SF-16, SF-10, SF-8.4, SF-7, ZL-5, 2-F and MF-14, to be used for single-family, zero lot line, duplex, and/or apartment/multifamily residential purposes.

- (a) Whenever a final plat is filed of record with the county clerk for development of a residential area in accordance with the planning and zoning ordinances of the city, such plat shall contain a clear fee simple dedication of an area of land to the city for park purposes, which area shall be equal to or greater than the property being subdivided's pro rata share of neighborhood park property required for the neighborhood park district in which the property being platted or subdivided is located as shown by the park master plan. Any proposed plat submitted to the city for approval shall show the area proposed to be dedicated under this article. The requirement for dedication under this article may be met by a payment of money in lieu of land when permitted or required by the other provisions of this article.
- (b) The city council declares the development of an area smaller than one acre for public park purposes to be impractical. Therefore, if less than one acre is calculated to be the pro rata share of a development plat filed for approval, the developer shall be required to pay the applicable cash in lieu of land amount provided for by section 38-55(c), rather than dedicate any land area. No plat showing a dedication of less than one acre shall be approved.
- (c) In instances where an area of less than six acres but more than one acre is calculated to be the pro rata share of a development, the city council shall have the option of requiring land dedication or cash in lieu of land in accordance with section 38-55(c) after consideration of the recommendation of the planning and zoning commission and the parks and recreation board. If the city determines that sufficient park area is already in the public domain in the area of the proposed development or the neighborhood park district, or if the recreation potential for that zone would be better served by expanding or improving an existing park, dedication may also be refused and cash in lieu of land may, likewise, be required.
- (d) The dedication required by this article shall be made by filing of the final plat or contemporaneously by separate instrument. If the actual number of completed dwelling units exceeds the figures upon which the original dedication is based, additional dedication shall be required and shall be made by payment in lieu of land amount described by section 38-55(c), or by the conveyance of an entire numbered lot to the city.

(Code 1982, § 24-43; Ord. No. 87-1, § III, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-54. - Prior dedication; absence of prior dedication.

At the discretion of the city council, any former gift of land to the city may be credited on a per acre basis toward the eventual land dedication requirements imposed on the donor of such land. The city council shall consider recommendations of the planning and zoning commission and the parks and recreation board in exercising its discretion under this section.

(Code 1982, § 24-44; Ord. No. 87-1, § IV, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-55. - Money in lieu of land.

- (a) Subject to the veto of the city council and the terms of section 38-53, a landowner responsible for dedication under this article may elect to meet the requirements of section 38-53 in whole or in part by a cash payment in lieu of land, in an amount set forth in subsection (c) of this section. Such payment in lieu of land shall be made at or prior to final plat approval.
- (b) The city may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the city does purchase park land in a neighborhood park district and said land purchased is used to meet the need for a neighborhood park, subsequent land dedications for that district shall be in cash only and calculated on a pro rata share basis to reimburse the city's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of:
 - (1) The average price per acre of such land; and
 - (2) The actual cost of adjacent streets and site utilities, or an estimate of such actual costs provided by the city engineer and the recreation improvement costs for facilities as set forth in the park master plan for neighborhood parks.

Once the city has been reimbursed entirely for all park land within a park zone, this section shall cease to apply and the other sections of this article shall be applicable.

- (c) To the extent that subsection (b) of this section is not applicable, the dedication requirements shall be met by a cash payment in lieu of land on the basis of a per acre price. Said per acre price shall be determined annually by the city council and shall be based on current land values within the city. Once established the council shall adopt the value by resolution for appreciation as required in this subsection. Cash payments may be used only for acquisition or improvement of neighborhood parks located within the same neighborhood park district as the development in accordance with the park master plan.

(Code 1982, § 24-45; Ord. No. 87-1, § V, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-56. - Dedication of more than the pro rata share of park land.

- (a) The developer of a residential subdivision which is subject to the terms of this article may dedicate more land than the pro rata share calculated for the development if approved by the city council. If the developer dedicates an amount equal to or greater than the total required park land area for the neighborhood park district in which his subdivision is located, the city and the developer shall execute a pro rata refunding agreement in accordance with these subdivision regulations which shall recover the cost of land dedicated in excess of the developer's pro rata share after streets, drainage, and utilities are constructed on the dedicated property.
- (b) The developer shall install the streets, drainage, and utilities to serve the neighborhood park, and the cost of same shall be included in the pro rata refunding agreement. The pro rata refunding agreement shall provide that future developers in the same neighborhood park district shall pay their pro rata share of the actual cost of park development which shall be calculated based on the per acre cash in lieu of land cost in effect at the time of dedication, plus the costs of streets, drainage, utilities, and recreational facilities installed to serve the dedicated neighborhood park. The cost of streets, drainage and utilities installed to serve the park shall be certified by the city engineer. In no case shall the developer receive pro rata payments after he has recovered an amount equal to the number of acres actually dedicated in excess of his pro rata share multiplied by the per acre cash in lieu of land figure in effect at the time of actual dedication, plus the costs of streets, drainage, and utilities as certified by the city engineer necessary to serve the neighborhood park. In no case shall the term of any pro rata agreement provided by this article be for a period in excess of five years from the date of dedication.

(Code 1982, § 24-46; Ord. No. 87-1, § VI, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-57. - Special fund established; refunds.

- (a) There is hereby established a special fund for the deposit of all cash funds in lieu of land dedication under this article, which fund shall be known as the "Park Land Dedication Fund."
- (b) The city shall account for all sums paid in lieu of land dedication under this article referenced to individual plats involved. Any funds paid for such purposes must be expended by the city within eight years from the date received by the city for acquisition and development of a neighborhood park as defined in this article. Such funds shall be considered to be spent on a first/in first/out basis. If not so expended, the owners of the property on the last day of such period shall be entitled to a pro rata refund of such funds, calculated on a square footage basis. The owners of such property must request such refund within one year of entitlement, in writing, or such rights shall be barred.

(Code 1982, § 24-47; Ord. No. 87-1, § VII, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-58. - Additional requirements and provisions.

- (a) Any land dedicated to the city under this article shall be suitable for park and recreation use. The following characteristics of a proposed area are generally unsuitable:
 - (1) Any area located in the 100-year floodplain;
 - (2) Any area of unusual topography or slope which renders same unusable for organized recreational activities.

The characteristics of the park land dedication area mentioned in this subsection may be grounds for refusal of a plat.

- (b) Each park must have ready access to a public street.
- (c) Unless provided otherwise in this article, action by the city shall be by the city council after consideration of the recommendations of the planning and zoning commission and the parks and recreation board. Any proposal considered by the planning and zoning commission under this article shall have been reviewed by the parks and recreation board and its recommendation given to the commission. The commission may make a decision contrary to such recommendation only by a vote of at least five members. Should the commission be unable to get this vote, the matter shall then be referred to the city council for final decision.
- (d) If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

(Code 1982, § 24-48; Ord. No. 87-1, § VIII, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-59. - Review and updating park master plan.

The city parks and recreation department shall consider the need to update the park master plan at least annually to ensure that the plan remains current and provides an equitable, effective framework from which to pursue the acquisition and development of neighborhood park services for each neighborhood park district.

(Code 1982, § 24-49; Ord. No. 87-1, § XI, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-60. - Waiver of mandatory neighborhood park land dedication in the case of private developments.

- (a) If a development is proposed to be a private development where no public streets are dedicated for use by the public, the city shall:
 - (1) Calculate the pro rata share of the proposed private development as if it were to be a development where public streets were to be dedicated.
 - (2) Waive the requirement for mandatory dedication if the private amenities of the proposed development meet or exceed the calculated pro rata share as calculated under subsection (a)(1) of this section.
 - (3) Decrease the total acreage shown in the park master plan as being required to meet the ultimate need for neighborhood parks in the applicable neighborhood park district by the acreage calculated under subsection (1) of this section (for the purpose of future calculations of pro rata shares for future developments).
- (b) In a private development within a park district or a private development encompassing an entire park district, the park property within the private development must be easily accessible to the general public either through the use of the city trail system or public roadways. If the private development encompasses the entire park district and the ten acres of park land is not continuous, each separate section of park property must be accessible to the general public and connected by way of a minimum eight-foot-wide trail.

(Code 1982, § 24-50; Ord. No. 87-1, § IX, 1-5-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Sec. 38-61. - Waiver of article requirements by city council.

The city council may waive the requirements of this article upon a finding by the city council that said waiver is clearly in the best interest of the city.

(Code 1982, § 24-51; Ord. No. 87-13, § I, 3-16-1987; Ord. No. 99-20, § 1, 6-7-1999; Ord. No. 15-17, § 1, 6-1-2015)

Secs. 38-62—38-82. - Reserved.