

EXHIBIT A

ARTICLE 8. - PARK AND RECREATION DEVELOPMENT

The purpose of the park land dedication and development requirements is to provide recreational areas in the form of city or private parks in conjunction with subdivision development. Each residential development, including multi-family developments, containing four or more residential units shall dedicate a portion of the land and construct facilities, or pay cash in lieu of dedication and construction.

Sec. 8.1 - Parkland dedication policy.

(a) Parkland site selection requirements.

- (1) Land proposed for dedication under this policy shall be suitable for parks, linear destination trails and recreational uses, as determined by the director of parks and recreation.
- (2) Park locations shall generally comply with the parks and trails master plan.
- (3) In selecting a site for a park, the director of parks and recreation will avoid an accumulation of non-contiguous parcels of land or an accumulation of land unsuitable for park purposes.
- (4) Park sites will be accepted on the basis of obtaining natural, park-like settings, where available, and will consist of diverse topography and open space suitable for the development of recreational facilities.
- (5) Park sites shall be located, whenever possible, contiguous to school sites and other public or nonprofit agency sites in order to make maximum use of common public facilities and grounds.
- (6) Careful consideration shall be given to the need for development of linear parks and trails around natural creeks and wooded areas. When development occurs near a floodway that is designated by either the parks and trails master plan or the director of parks and recreation, the developer is required to construct that portion of the trail that occurs within his/her development. The developer will construct the trail in accordance with park and recreation design criteria. The cost for the trail's development will be borne by the developer and will be credited toward the developer's infrastructure requirement.
- (7) At least 50 percent of the required dedicated parkland should have slopes in the two percent to five percent range and should be well-drained.
- (8) Floodplain and floodway areas, as designated on the flood insurance rate map (FIRM) should not exceed 50 percent of the total park dedication.

(9) All parks dedicated in accordance with this ordinance shall have access to public streets, water, sanitary sewer, and drainage systems.

(10) Parks shall have a minimum accumulation of 150 feet of frontage along a public street.

(b) *Parkland dedication requirements.* Except as provided in subsection (d) below, each single family residential subdivision shall dedicate one acre of parkland for every 95 residential dwelling units. For multi-family residential subdivision, the developer shall dedicate one acre of parkland for every 109 residential dwelling units.

(1) Land proposed for park dedication shall be shown on the preliminary plat and shall be a minimum of three acres in size, unless otherwise approved by the director of parks and recreation. Such park sizes and classifications shall comply with the standards set forth in the parks and trails master plan.

(2) Land proposed for park dedication should be within the subdivision.

(3) If a replat is filed on a property and the number of dwelling units within the subdivision increases, additional park dedication will be required to account for the increase in the number of dwelling units.

(4) Prior to conveyance of property to the city, the city may require the developer to perform a phase 1 environmental assessment. Should the environmental assessment indicate environmental contamination, the city may require additional testing by the developer or may require the developer to locate another site suitable for park dedication or pay the fee in lieu as provided in subsection (d) below.

(5) The developer shall grant the city access to the property proposed for parkland so that the city can make inspections and surveys prior to conveyance of the property.

(6) Determinations of required land dedication will be based upon review of preliminary plats. Failure to indicate proposed park dedications on the submitted preliminary plat will be sufficient grounds for the city to deny the preliminary plat.

(7) Basis of parkland dedication requirement. The current level of service provided in the city is one acre per 248 people. The basis of the park development requirement is more fully set forth in Exhibit 2.

(c) *Parkland conveyance requirements.* Upon final agreement of the location of the park dedication, the developer shall provide the following:

(1) A metes and bounds description of the land to be conveyed; and

(2) A survey plat of the park property only; and

(3) A copy of the developer's deed demonstrating ownership and right to convey the property; and

(4) Documents conveying ownership to the city in the form of a:

- a. General warranty deed; or
- b. Special warranty deed and a title policy provided by the developer insuring the city in an amount equal to the value of the property.

(d) *Fees in lieu of parkland dedication.*

(1) An owner or developer responsible for parkland dedication under this article may elect to meet the requirements of subsection (b) above, in whole or in part, by a fee payment in lieu of land as set forth in this subsection. If the calculation for required park dedication results in less than three acres or does not meet the site selection criteria set forth in this ordinance, the director of parks and recreation may require a fee in lieu of dedication or a combination of parkland dedication and fee.

(2) The fee in lieu of parkland dedication will be "per residential dwelling unit" based on the land value of the formula of residential property in Burleson listed below:

a. The total fee to be paid to the city in lieu of dedication shall be determined as follows:

(i) For Single Family:

- (1) Dividing the number of dwelling units contained within the final plat by 95; then
- (2) Subtracting the acreage of any parkland dedication to obtain the net requirement for fee in lieu of dedication; then
- (3) Multiplying the net acreage requirement by 95 to calculate the equivalent number of dwelling units; then
- (4) Multiplying the equivalent number of lots by \$458.00.

(ii) For Multi-Family:

- (1) Dividing the number of units set forth in the building permit application and associated plans by 109; then
- (2) Subtracting the acreage of any parkland dedication to obtain the net requirement for fee in lieu of dedication; then
- (3) Multiplying the net acreage requirement by 109 to calculate the equivalent number of units; then
- (4) Multiplying the equivalent number of units by \$399.00.

b. Basis of the fee in lieu of parkland dedication. The formula above assumes that the value per square foot to acquire the parkland is \$1.00 per square foot and \$43,560 per acre, and divides the value by the unit count

per acre dedication requirement subsection (b) above. The basis of the fee in lieu of parkland dedication is more fully set forth in Exhibit 2.

(3) Should the developer not agree with the city's determination of \$1.00 per square foot value of park land, the developer may, at developer's own cost, obtain an appraisal of the property from a state certified appraiser with a MAI designation. If the property was acquired within the year previous to the platting of the property, the developer may submit the contract for sale for consideration in determining fair market value.

(4) For single family developments, fees in lieu of dedication shall be assessed at the time of final plat submittal and shall be paid prior to recording the plat with the county. For multi-family developments, fees in lieu of dedication shall be assessed at the time of an application for building permit shall be paid prior to the issuance of a building permit.

(5) If parkland dedication for a phase subdivision is proposed in future phases, the developer shall do the following prior to filing of plats that do not contain parkland:

a. Deed the parkland or a portion of the parkland located within the future phase in accordance with subsection (c) above.

(e) *Parks Director Acceptance of Parkland.* Parkland that does not meet all of the specifications set forth in subsections (a), (b)(1), (b)(2), and (b)(4) above may nevertheless be accepted by the City pursuant to this Section if the director of parks and recreation, in their sole discretion, finds that such acceptance is in the best interest of the City's park system, and such acceptance is communicated in writing.

Sec. 8.2 - Park infrastructure development policy.

(a) *Park infrastructure fee.*

(1) A park infrastructure fee shall be collected prior to recording the final plat with the county; however, if a multi-family subdivision is proposed the parkland infrastructure fee shall be assessed at the time of an application for building permit shall be paid prior to the issuance of a building permit.

(2) The park infrastructure fee is \$818 per single family dwelling unit, and \$711 per multi-family dwelling unit. This fee is separate of the land dedication or fee in lieu requirements.

(3) Basis of park infrastructure fee. The park infrastructure fee is based upon the cost to purchase and erect minimal park amenities on a three-acre park site, which is \$1,000,000. The basis of the park infrastructure fee is more fully set forth in Exhibit 2.

(b) *Park infrastructure construction.*

(1) Upon approval by the director of parks and recreation, a developer may construct park infrastructure in lieu of paying the park infrastructure fee.

(2) The value of the park infrastructure, including design of the park and the labor to construct the infrastructure, shall be equal to or greater than the park infrastructure fee would have been. In no case will the city reimburse the developer for expenditures greater than the park infrastructure fee would have been.

(3) Prior to constructing park infrastructure, the developer shall provide to the director of parks and recreation a park plan for improvements that comply with the city's design, specification, and construction standards. The following features will be considered for construction:

- a. Playground.
- b. Picnic shelter.
- c. Practice baseball/softball field with backstop.
- d. Practice soccer field with goals.
- e. Walking or destination oriented trail.
- f. Multi-use slab with weatherproof basketball goal and backboard.
- g. Turf, landscaping, and vegetation.
- h. Paved parking areas.
- i. Other facilities as approved by the director of parks and recreation.

(4) The developer must construct the park infrastructure concurrent with other public improvements and complete the construction of the park infrastructure improvements prior to final acceptance of the subdivision. The construction of the park improvements will be accomplished via a two-party park memorandum of understanding between the city and the developer. The director of parks and recreation will execute the park memorandum of understanding on behalf of the city. The city shall inspect the park infrastructure construction for compliance with the plans and specifications.

(5) The cost of park infrastructure constructed in private open space will not be credited toward the park infrastructure fee.

Sec. 8.3 - Park development general policies.

(a) All fees or conveyance of property shall be complete prior to recording the final plat with the county, except as provided in Section 8.1(d)(4) and Section 8.2(a)(1).

(b) The city recognizes the value of a city park to a development and will make all attempts to develop the park property as quickly as possible but does not guarantee the expenditure of park infrastructure funds within any specified time frame.

(c) Unless otherwise provided in this ordinance, all decisions will be made by the director of parks and recreation. Decisions of the director of parks and recreation with regard to the application of this policy may be appealed to the city manager, then to the city council.

Sec. 8.4 – Credits.

(a) Credit for park recreation facilities open to the public.

(1) Where recreation facilities are built for the residents of a subdivision development, a credit may be given to the developer for the park infrastructure fee, the parkland dedication requirement, or fee-in-lieu thereof, based on the value of such neighborhood park recreational facility development. Credit may be issued for up to 50% of the total amount of the park infrastructure fee and the parkland dedication requirement or fee-in-lieu thereof. This credit is only applicable if the recreation facilities are privately owned and maintained, but open to the public.

(2) To be eligible for credit, publicly accessible private park land must:

- a. Be made accessible to the public on an instrument approved by the City Attorney;
- b. Be of a size approved by the director of the City's parks and recreation director to appropriately meet the needs of the development;
- c. Provide adequate accessibility from the adjacent public street(s) in compliance with the Americans with Disabilities Act (ADA) and as approved by the City's parks and recreation director;
- d. Provide landscaping and recreational amenities typical of a standard neighborhood park approved by the City's parks and recreation director; and
- e. Be open to the public during all times it is accessible to the residents of the development.

(3) Equipment in a private park must comply with city standards applicable to the type of equipment.

(4) A publicly accessible private park land instrument must:

- a. Contain a legal description of the development and the publicly accessible private park land;
- b. Be signed by all owners and lienholders of the development property and is binding to all lien holders by a subordination clause;
- c. Be approved by the City's parks and recreation director;
- d. Be approved as to form by the City Attorney;
- e. Create a covenant running with the land;
- f. Provide that the owners of the property development are responsible for all general park maintenance at a level consistent with minimum city park and recreation standards;
- g. Provide necessary easements for access to the publicly accessible private park land;

- h. Give the city the right, but not the obligation, to take any action needed to make necessary repairs or improvements within the publicly accessible private park land, and to place a lien on all lots within the development until the city has received full compensation for that action;
- i. Provide that the owners of property in the development agree to defend and indemnify the city, and to hold the city harmless from and against all claims or liabilities arising out of or in connection with publicly accessible private park land or publicly accessible private park land instrument;
- j. Provide that it is governed by the laws of the State of Texas; and
- l. Provide that it may only be amended or terminated:
 - (i) With the consent of all the owners and lienholders of property in the development;
 - (ii) Upon the dedication of any park land or payment of a fee-in-lieu necessary to meet the requirements of this section; and
 - (iii) After approval as to form by the City Attorney, and approval by the City's parks and recreation director.

(5) The developer may receive a 50% credit based on actual out-of-pocket dollar costs that the developer incurred for the improvement of a private park or recreational facility. The proposed improvement of the private park or recreational facility and maximum allowable out-of-pocket dollar costs eligible for the credit must be approved by the City's parks and recreation director in writing prior to the filing of the preliminary plat and prior to the commencement and installation of the improvements. The actual out-of-pocket dollar costs must be evidenced by documentation approved by the City's parks and recreation director in writing. The proportional credit amount shall count toward meeting the total park infrastructure fee imposed on the developer. A developer will be given a 50% credit for the cost, as approved by the City's park and recreation director, of the amenities they install on in the development, but the credit will be capped by the maximum amount of the park infrastructure fee associated with the development.

(6) Credits requested pursuant to this article will only be given for amenities that meet the minimum design and construction standards as set forth by the City's parks and recreation department.

(b) Credits for park land dedication outside of the development. A developer of a subdivision may dedicate park land that is not within the boundaries of his or her development and receive credits for that subdivision against the parkland dedication requirement or fee-in-lieu thereof. The proposed park land dedication must be approved by the City's parks and recreation director in writing prior to the filing of the preliminary plat. The proposed park land dedication property must be in the same park zone as the proposed subdivision, within a reasonable distance of existing or developing residential neighborhoods, and meet the park land dedication criteria outlined herein.

(c) Credits for Tree Preservation. A credit of the park infrastructure fee and the parkland dedication requirement or fee-in-lieu thereof, shall be granted for developers who elect to

preserve a portion of their tree canopy as part of their development as described in this subsection.

(1) To be eligible for a credit of 50% credit per dwelling unit, the following criteria must be met:

- a. The trees shall be identified on a tree a survey prior to final plat in the case of a single family residential subdivision or building permit in the case of a multi-family residential subdivision;
- b. The final tree count and inspection must be approved by the City's park and recreation director or his/her designee; and
- c. A minimum of 2 trees be preserved per dwelling unit that are a minimum of 6 caliber inches and are of a kind that is on the approved tree species type list, which is set forth in Exhibit 1; or a single tree over 12 caliber inches in diameter per dwelling unit and are of a kind that is on the approved tree species type list, which is set forth in Exhibit 1.

EXHIBIT 1

Approved Tree List

Large Trees American Elm Arizona Cypress Bald Cypress Black Walnut Bur Oak Caddo Maple Cedar Elm Chinquapin Oak Deodar Cedar Lacebark Elm Live Oak Mexican Sycamore Monterrey Oak Pecan Pond Cypress Shumard Red Oak Southern Magnolia Sycamore Texas Red Oak	Medium Trees Bigtooth Maple Claudia Wannamaker Magnolia Chinese Pistache Common Persimmon Eastern Red Cedar Eve's Necklace Ginkgo biloba Honey Locust (Thornless) Lacey Oak Little Gem Magnolia River Birch Shantung Maple Soapberry Trident Maple
Ornamental Trees Blue Point Juniper Carolina Buckthorn Crepe Myrtle Desert Willow East Palatka Holly Fig Forest Pansey Redbud Japanese Maple Mexican Buckeye Mexican Plum Nellie R. Stevens Holly Pomegranate Possumhaw Oklahoma Redbud Roughleaf Dogwood Rusty Blackhaw Viburnum Savannah Holly Saucer Magnolia Smoketree	Screening Trees Arizona Cypress Blue Point Juniper Burford Holly Eastern Red Cedar Little Gem Magnolia Mary Nell Holly Mountain Laurel Nellie R. Stevens Holly Pomegranate Savannah Holly Vitex Wax Myrtle Yaupon Holly

Flameleaf Sumac Texas Mountain Laurel Texas Perssimon Vitex	
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Exhibit 2

Land Dedication Requirements:

- Establish baseline level of service
 - o Population / acreage of applicable parks = level of service
 - o $47,641 / 191.87 = 1$ acre per 248 residents
- Establish land dedication requirement for development type
 - o Acreage per resident / census density value = acre per number of unit type
 - o Single Family
 - § $248 / 2.6 = 95$ (1 acre per 95 dwelling units)
 - o Multifamily
 - § $248 / 2.26 = 109$ (1 acre per 109 dwelling units)

Fee in Lieu Requirements:

- Determine value per square foot to acquire parkland
 - o \$1.00 per square foot; \$43,560 per acre
- Identify unit level price per development type
 - o Single acre price / unit count per acre dedication requirement
 - o Single Family
 - § $\$43,560 / 95 = \458.53 fee in lieu per dwelling unit
 - o Multifamily
 - § $\$43,560 / 109 = \399.63 fee in lieu per dwelling unit

Park Infrastructure Fee Requirements:

- Establish cost to develop applicable parks
 - o \$1,000,000 – includes playground, loop trail, amenities package, athletic field, sports court, etc.
- Determine number of people per park
 - o Population / number of applicable parks
 - o $47,641 / 15 = 3,176$
- Determine cost per person to develop a park
 - o $1,000,000 / 3,176 = \$314.86$
- Determine cost per development type
 - o Census density value * cost per person to develop a park
 - o Single Family
 - § $\$314.86 * 2.6 = \818 park infrastructure fee per dwelling unit
 - o Multifamily
 - § $\$314.86 * 2.26 = \711 park infrastructure fee per dwelling unit

Total Fee:

- Add fee components together
 - o Fee in lieu + park infrastructure fee = total fee per development type
 - o Single Family
 - § \$458 fee in lieu + \$818 park infrastructure fee = \$1,277 per dwelling unit
 - o Multifamily
 - § \$399 fee in lieu + \$711 park infrastructure fee = \$1,111 per dwelling unit