

1111.04 Parkland Requirements And Standards

1. Findings: Parkland Standard: It is found and determined that the public health, safety, convenience, comfort, prosperity and general welfare requires that at least seventeen (17) acres of property for each one thousand (1,000) persons residing within the City of Franklin, Ohio be devoted to parkland, and the same is hereby established as the parkland standard for all purposes of this UDO, The parkland standard utilized was determined by computing the approximate existing ratio of parkland to population within the City of Franklin.
2. Statement of Policy: With respect to Major Subdivisions ~~and Planned Unit Overlay District developments~~, at least eight and one-half (8-1/2) acres of property for each 1,000 persons (.0085 acres per person) should be reserved for parkland by or at the expense of the subdivider ~~or developer~~ of the dwellings in which such persons shall reside, and the remainder of the seventeen-acre standard established in this Section shall be acquired for such purposes by the City. All parkland reserved or acquired shall be developed and maintained by the City.
3. Adoption of Park Plan: Council may adopt a plan for the parks and other public grounds of the City, which may constitute a part of the Comprehensive Development Plan and which shall provide a guide for the orderly acquisition of parkland within the City, in accordance with the parkland standard set forth in this Section, the criteria set forth in this Section and such other criteria as Council may deem appropriate to accomplish the purposes of this Section.
4. Provision of Parkland by Subdividers ~~or Developers~~: Every Subdivider ~~or Developer~~ who files ~~a any proposal, plan or~~ plat for a Major Subdivision ~~or a PUD Development~~ of land within the City after the effective date of this UDO, who has not theretofore filed any preliminary plat ~~or plan~~ with respect to such subdivision ~~or development~~, shall either dedicate a portion of such land, pay a fee in lieu of land dedication, or dedicate land and pay a fee in lieu of land dedication, all as provided in this section, for the purpose of providing parkland to serve future residents of each subdivision ~~or development~~.
5. Determination of Total Population:
 1. **Population Factor:** For the purposes of this Section, a population factor for each dwelling unit planned for a subdivision or development shall be determined as follows:

Residential Dwelling	Type Population Factor Per Dwelling Unit
Single-Family	3.25
Two-Family	2.50
Three-Family	2.00
Multi-Family	
Unit (restricted to one tenant)	1.00
All other units	1.75

2. **Total Population:** Total population for any subdivision or development shall equal the sum of the population factors of all dwelling units to be included in the subdivision or development. For the purposes of this Section, the Planning Commission shall determine the number and types of dwellings to be included in any subdivision or development on the basis of such relevant information as it may have or be able to obtain to show the same, including, without limitation, any plans, estimates or statements of intention furnished by the Subdivider ~~or Developer~~ relating to the proposed improvement of the subdivision ~~or development~~, the nature and topography of the land involved and the nature and kind of improvements actually planned or probable thereon.

6. Determination of Land Dedication or Payment of Fee for Provision of Parkland:

1. **Determination by Planning Commission:** The Planning Commission shall determine, subject to the approval of Council, whether a Subdivider ~~or Developer~~ shall dedicate land, pay a fee in lieu of dedication, or provide a combination of land dedication and fee payment. In addition, Planning Commission may, subject to the approval of Council:

1. Require the dedication of a public area, in an amount up to five percent (5%) of the gross area of the proposed subdivision ~~or development~~ as a condition of approval of that subdivision ~~or development~~, where a proposed neighborhood park, playground, recreation area, school site or other public use, as shown on the Comprehensive Development Plan, is located in whole or in part in a subdivision ~~or development~~.

2. Require the dedication of greenbelts or buffer parks in areas where they are desirable to separate and protect residential subdivisions ~~or developments~~ from adjacent commercial developments, express highways, major streets and railroad rights-of-way.
 3. Require the dedication or reservation of other public open spaces where deemed necessary by the Planning Commission for preservation of historic sites and scenic areas or for a particular type of development proposed in the subdivision ~~or development~~, but not anticipated in the Comprehensive Development Plan.
2. **Procedure:** In making the determination of land dedication or payment of fee, or combination thereof, for the provision of parkland, the following procedures shall apply:
1. *Contents of Filings:* At the time of the filing of a Preliminary Plat ~~or Development Plan~~, each Subdivider ~~or Developer~~ shall, as a part of such filing, submit a calculation of the total population of the subdivision ~~or development~~, in accordance with section 1111.04(e), and indicate whether he wishes to dedicate land as parkland, to pay a fee in lieu of dedication, or to meet the requirements of this Section by a combination of parkland dedication and fee payment.
 2. *Planning Commission Determination:* After the Planning Commission has reviewed the Preliminary Plat ~~or Development Plan~~, it shall determine whether the wishes of the Subdivider ~~or Developer~~ to dedicate land, pay a fee, or provide a combination thereof, are acceptable. If such wishes are acceptable, Planning Commission shall recommend to Council that Council accept the dedication of land, the payment of a fees, or a combination thereof, as proposed by the Subdivider ~~or Developer~~. If Planning Commission deems such wishes unacceptable, it shall recommend an alternative course of action to the Subdivider ~~or Developer~~. If the Subdivider ~~or the Developer~~ rejects Planning Commission's alternative, upon presentation, Council shall determine whether to accept the Subdivider's ~~or Developer's~~ wishes, or Planning Commission's recommendation, or some other alternative.
 3. *Location:* If the Subdivider ~~or Developer~~ desires to dedicate land, he shall indicate the area he desires to dedicate on the Preliminary Plat

~~or Development Plan~~. The location of such parkland shall be reviewed by Planning Commission to determined if it meets the criteria of this Section. If Planning Commission determines that the proposed location of the area to be dedicated is acceptable, it shall recommend to Council that Council accept the dedication of land as proposed. If Planning Commission deems that such location is unacceptable, it shall recommend an alternative location to the Subdivider~~or Developer~~. If the Subdivider~~or Developer~~ rejects Planning Commission's alternative, upon presentation, Council shall determine whether to accept the Subdivider's~~or Developer's~~ proposed location, or Planning Commission's recommendation, or some other alternative.

4. *Reclamation; Adverse Effects of Development:* If, in the opinion of Council, or upon the recommendation of Planning Commission, any portion of land proposed for dedication has been, or will be, adversely affected by the operations of the Subdivider~~or Developer~~, and such land or portion thereof will require reclamation in order to render it suitable for parkland, Council may require the Subdivider~~or Developer~~ to furnish a plan for such reclamation. The Planning Commission and Council shall seek the advice of the City Engineer or other professional, as it deems proper, with respect to any such plan, and shall determine, on the basis of such advice, whether such plan is acceptable in view of the purposes of this Section. If such plan is deemed acceptable, the Subdivider~~or Developer~~ shall implement such plan in accordance with a timetable approved by Planning Commission. The City may, without prejudicing any rights the City may have in law or in equity, deny approval of a Final Plat~~or Development Plan~~ for noncompliance with a previously approved reclamation plan or timetable approved by Council.
5. *Criteria:* In making its determination, Planning Commission and Council shall utilize the following criteria;
 1. Unity. Dedicated land must form a single parcel of land, except in the event that the Planning Commission or Council determines that two or more parcels would be in the best public interest or in the event that the parcel adjoins an existing or proposed park.

2. Shape and Topography. The shape and topography of the dedicated parcel of land shall be suitable for active and/or passive recreation to serve the public properly as determined by Council after review by the Planning Commission.
 3. Location. Dedicated land must be located in order to serve the recreation and open space needs of the subdivision ~~or development~~ for which the dedication is being made.
 4. Access. Public access and maintenance access shall be provided by adjoining frontage of one hundred or more feet (100') per acre at one location on a public street with street improvements, sidewalks and utilities installed by and at the expense of the Subdivider ~~or Developer~~, or by public walkways installed by and at the expense of the Subdivider ~~and Developer~~, unless otherwise recommended by Planning Commission and approved by Council. Frontage shall be increased by at least forty feet (40') for each acre of parkland beyond one acre.
 5. Preservation of Natural Beauty. In all instances, natural features of scenic beauty, such as trees, plant life, brooks and other watercourses, topography, historic locations, views and similar conditions, which, if preserved, will add attractiveness and value to the dedicated land, shall be considered and preserved in the dedication of parkland.
7. Amount of Land to be Dedicated: The amount of land to be dedicated by a subdivider ~~or developer~~ pursuant to this Section shall be determined in accordance with the following formula:

Acres of land for dedication = Total population as determined in accordance with paragraph (e), above X .0085

8. Determination of Fee in Lieu of Dedication: In the event Planning Commission recommends or Council determines that the Subdivider ~~or Developer~~ should pay a fee in lieu of land dedication, the amount of such fee shall be determined by the following formula:

Fee in lieu of land dedication = Land area that would otherwise be required for dedication pursuant to paragraph (g), above X Market Value as determined pursuant to paragraph (i), below

9. Determination of Market Value: For the purposes of this Section, market value shall be determined as follows:

1. **Time for Determination:** Market value shall be determined as of the time of filing of the Final Plat ~~or Development Plan~~, or the Construction Plans of the first section of an approved subdivision ~~or development plan~~ with the City.
2. **Method of Determination:** Market value shall equal the average value per acre of all land in each subdivision ~~or development~~ in its raw, undeveloped state, plus one-half (1/2) the cost of installation of four hundred feet (400') of public street, sidewalk and utility improvements in the subdivision ~~or development~~ for the first five (5) acres of park area, plus forty feet (40') of public street, sidewalk and utility improvements for each additional acre, as determined by the application of one of the following procedures:
 1. By agreement between the Subdivider ~~or Developer~~ and the Council, which may include appraisal by a qualified independent appraiser paid for by the Subdivider ~~or Developer~~ and approved by Council; or
 2. In the event the Subdivider ~~or Developer~~ objects to the foregoing method or valuation, by a three-member board of appraisers, one of whom shall be appointed by Council, one of whom shall be appointed by the Subdivider ~~or Developer~~, and one of whom shall be selected by the two appraisers so appointed. The City shall pay for the appraiser appointed by Council, the Subdivider ~~or Developer~~ shall pay for the appraiser appointed by him, and the City and the Subdivider ~~or Developer~~ shall split the cost of the third appraiser. The decision of a majority of such board shall be final.

10. Public Park Development and Maintenance: Public park development and maintenance shall be provided by the City.

11. Credit for Private Open Space:

1. **Allowance of Credit:** In the event that a Subdivider ~~or Developer~~ provides private open space for park purposes and such space is to be privately owned and maintained by the future residents of the subdivision ~~or development~~, or by the Subdivider ~~or Developer~~, and in the event Council,

upon the recommendation of Planning Commission, determines that such private open space adequately fulfills a portion of the park needs of the proposed subdivision ~~or development~~, the market value of such areas, as determined in paragraph (i), above, shall be credited against the land dedication or fee in lieu of dedication of land requirements of this section.

2. **Maximum Credit:** Such credit shall be allowed only up to a maximum of one-half (1/2) of the total required land dedication or fee in lieu of dedication requirement. The remaining one-half (1/2) shall be provided in accordance with the requirements of this Section.
 3. **Standards and Limitations:** Notwithstanding subsections (1) and (2), hereof, the credit for private open space shall be allowed only if all of the following standards are met:
 1. Yards, court areas, setbacks and other such open areas required to be maintained by this UDO shall not be included in the computation of such private open space;
 2. Private ownership, development and maintenance of the private open space shall be assured by valid and enforceable undertakings on the part of the Subdivider ~~or Developer~~;
 3. The use of the private open space is restricted for park purposes by recorded covenants that run with the land in favor of the future owners of the property within the subdivision ~~or development~~, and which cannot by their terms be defeated or eliminated without the consent of Council;
 4. The proposed private open space is reasonably adaptable for park uses, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space land; and
 5. Facilities proposed for the private open space can be reasonably expected to meet the needs of future residents.
12. Treatment of Land to be Dedicated: Procedure for Dedication of Land and Payment of Fees:
1. Following approval of a Preliminary Plat, ~~or~~ Final Plat ~~or Development Plan~~ which designates land for dedication, the existing vegetation (except growing commercial crops other than growing timber), topography, features of

historic value, stream courses, soil, rock strata and other natural features of such dedicated land shall not be altered or their condition adversely affected in any way without the consent of Council.

2. Dedication of land to the City shall be by general warranty deed conveying to the City good and marketable title to the real estate described in such deed, free and clear of all liens and encumbrances.
 1. The deed shall be executed and delivered to the City for signatures, and shall be recorded by the Subdivider ~~or Developer~~ with the Warren County Recorder, prior to the signing by the City of the Final Plat ~~or Development Plan~~, prior to the signing of Construction Plans of the first section of an approved Final Plat ~~or Development Plan~~, or prior to the issuance by the City of any permit allowing implementation of an approved Plat ~~or Development Plan~~.
 2. Open space covenants for private parks shall be submitted to the City, for review by the Law Director, prior to the approval of the Final Plat ~~or Development Plan~~ and shall be recorded at the same time as the Final Plat ~~or Development Plan~~. No City permits allowing for the implementation of any Plat ~~or Development Plan~~ shall be issued until the open space covenants have been approved by Council and recorded with the Final Plat ~~or Development Plan~~.
3. If a fee in lieu of dedication of parkland is required, the amount thereof shall be deposited with the City prior to the signing by the City of the Final Plat ~~or Development Plan~~, prior to the signing of Construction Plans of the first section of an approved Final Plat ~~or Development Plan~~, or prior to the issuance by the City of any permit allowing implementation of an approved Plat ~~or Development Plan~~.
4. Where a Subdivision ~~or Development~~ is being developed in sections, Council, in its sole discretion, may follow one of the following options:
 1. When land is being dedicated, Council may permit the subdivider ~~or developer~~ to place the deed to the parkland in escrow for later delivery to the City at the time of approval of the final section or Construction Plans for the final section; however, if any Construction Plans or other drawings are submitted for approval that includes or has a boundary contiguous with the proposed park, the deed

(whether in escrow or not) transferring the parkland to the City shall be recorded prior to the signing by the City of the final ~~plans or~~ plat.

2. When a fee is being paid in lieu of dedication, Council may permit the subdivider ~~or developer~~ to pay only a proportionate amount of the total fee, which shall be proportionate to the section being developed. In this case, proportionate shall mean that the total amount of the fee to be paid shall be divided by the total number of all proposed dwellings within the entire subdivision ~~or development~~, and the resultant dollar amount shall be multiplied by the number of dwelling units in the section to be developed.

13. Amendments of Approved Plats ~~or Development Plans~~.

1. Any amendment of an approved Plat ~~or Development Plan~~ which, under the provisions of this section, increases the requirement for parkland dedication or payment of a fee in lieu of dedication shall require that such increased parkland be dedicated or that such fee in lieu of dedication be paid by the Subdivider ~~or Developer~~ in compliance with the requirements of this Section.
2. Any amendment of an approved Plat ~~or Development Plan~~ which, under the provisions of this section, decreases the requirement for parkland dedication or payment of a fee in lieu of dedication shall not require the deeding by the City of any previously dedicated parkland back to the Subdivider ~~or Developer~~, the alteration of any deed placed in escrow or any escrow agreement that was a requirement of this section, or the repayment to the Subdivider ~~or Developer~~ of any fee in lieu of dedication already paid by the Subdivider ~~or Developer~~ to the City.

14. Limitation on Use of Land and Fees. Any land or fees received by the City pursuant to this Section shall be used only for the purpose of providing parkland to properly serve the future residents of the subdivision ~~or development~~ concerned. Fees paid pursuant to this Section shall be deposited in a City fund to be used only for the acquisition of parkland in the City or adjacent to the City, or for the maintenance, upkeep and operation of existing City parks. "Operation" may include general operating expenditures including, but not limited to, salaries and wages.

15. Modifications and Conditions:

1. Notwithstanding any provision of this Section to the contrary, Council may, in cases of an unusual or exceptional nature, allow for modifications in the parkland dedication and fee in lieu of dedication requirements and

standards of this Section. Modifications may be allowed when, in the opinion of Council, it has been determined and satisfactorily shown that the character of the particular subdivision ~~or development~~ and the parkland needs generated by and associated with any subdivision ~~or development~~ sufficiently justify such modifications.

2. In granting modifications of these requirements, Council may require such conditions as will, in its judgment, secure the objectives of the standards or requirements so varied or modified.

16. Severability: It is hereby declared that if any provision or provisions of this Section are declared by a court of competent jurisdiction to be invalid or ineffective, in whole or in part, all other provisions of this Section and of this UDO shall continue to be separate and fully effective and enforceable. It is further declared that if the application of any provision or provisions of this Section thereof to any lot, parcel or tract of land are declared by a court of competent jurisdiction to be invalid or ineffective or are declared to be inapplicable to any person or situation, in whole or in part, the application of any such provision or provisions to any other persons or situations shall not be affected.

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