

**ARTICLE 10.06.004**  
**PARK LAND DEDICATION AND PARK IMPROVEMENTS**

**Park Land Dedication and Park Improvements Required.** A developer of any subdivision subject to this ordinance or a site development permit subject to the Composite Zoning Ordinance which includes residential lots, building sites, or multi-family residential site development within the City limits or the City's extra-territorial jurisdiction , that adds any residential units to any subdivision or multi-family residential site development, shall prepare a park plan to provide for sufficient and suitable park land and park improvements for the purpose of public recreation in accordance with the following provisions:

**1) Park Plan Approval Process.** A residential developer shall prepare a park plan in conformance with the requirements of this Section and obtain approvals from the Appropriate Reviewing Authorities as follows:

- a) If the developer does not propose multi-family development, the developer is required to obtain approval of a park plan in compliance with this Section by the City Council in conjunction with consideration of the Concept Plan application.
- b) If the developer does not propose multi-family development, the developer is required to obtain approval of a park plan in compliance with this Section by the Planning and Zoning Commission in conjunction with consideration of the application
- c) If the developer proposes multi-family development, the developer is required to obtain approval of a park plan in compliance with this Section by the Building and Planning Department in conjunction with consideration of a Site Development Permit application.

**2) Public Park Land Dedication or Payment of Fee In-Lieu Required**

- a) **Formula for Calculating Area of Park Land.** The acreage of park land to be contributed by a developer prior to Final Plat approval of any single-family or two-family residential subdivision, or prior to site development permit approval for multi-family residential development, shall be equal to three and one-half (3.50) acres for each additional one hundred (100) dwelling units projected to occupy the fully developed subdivision or development. A "dwelling unit", when used in this section, shall mean each individual residence, including each individual residential unit in a multi-family residential structure or manufactured home park, designed or intended for habitation by a single family.

**3) Standards for Dedication of Park Land.** The land dedicated by a developer to meet the requirements of this section shall be suitable for public parks and recreation activities and shall comply with the following standards:

- a) The dedicated land shall form a single parcel or tract of land at least three (3) acres in size unless the Appropriate Reviewing Authorities determine that more than one tract or a smaller tract would be in the public interest.
- b) The developer shall provide public access to park land by providing at least fifty percent (50%) of the perimeter boundary of the park with street frontage, or as determined to be satisfactory by the Appropriate Reviewing Authorities. At the time the land abutting the delineated areas is developed, the developer of such abutting land shall dedicate and construct streets along all abutting street frontage and shall provide water and wastewater utilities to the boundary of one side of the delineated area to meet minimum requirements of this Ordinance.
- c) The developer shall dedicate park land reasonably located near the geographic center of the development. However, the Appropriate Reviewing Authorities may require park land to be located at the edge of a development so that additional land may be added at such time as

adjacent land is developed or acquired for public use in accordance with this ordinance. In addition, rare, unique, endangered, historic or other significant natural areas shall be given high priority for dedication pursuant to this ordinance. The Appropriate Reviewing Authorities may also require areas providing linkage to parks, schools or public places, or areas that preserve the natural character of the surrounding environment, be included in the park land dedication.

- d) The developer shall restore and stabilize any disturbed soil and establish vegetative cover of a type determined appropriate for the terrain and by the Building and Planning Department on park land.
- e) Developers are responsible for preserving the natural character of the trail corridor and dedicating the required right-of-way. Right-of-way dedication or easement size may vary due to site physical characteristics. If the land exceeds the amount of land required for park land dedication by this section, the remainder of the land not required for dedication shall be shown as a reserve park lot to be purchased by the City, or, the Appropriate Reviewing Authorities may credit the required park improvements fee in an amount equal to the fee in-lieu value (see paragraph 3 below) of the remaining land if such land is dedicated and deeded to the City.
- f) Land within the one hundred (100) year floodplain and land that has greater than 15% slope may constitute, in total, not more than fifty percent (50%) of the land dedication requirement. Lands within an inundation easement falling outside of the one hundred (100) year floodplain may constitute up to one hundred percent (100%) of the land dedication requirement if such land remains undisturbed and in a pre-development condition, and if such land is not utilized for another public purpose. In addition, for every acre of land dedicated for park land within the one hundred (100) year floodplain, or having a slope greater than 15%, only one-half (1/2) acre of park land dedication credit shall be given. [Example: If ten acres of park land is required to be dedicated for park land, at least five acres of such park land must be outside the 100 year floodplain and comprised of slopes less than 15%. For the remaining five acres of park land required, the developer can achieve compliance by dedicating five additional acres outside the 100 year floodplain and comprised of slopes less than 15%, or ten additional acres inside the 100 year floodplain and/or comprised of slopes more than 15%, or some combination thereof.]
- g) The developer shall dedicate all park land as a park lot on the applicable Final Plat. The developer shall deliver to the City a signed warranty deed transferring title to property dedicated as public park land to the City after City acceptance of park improvements and release of fiscal surety. If the developer fails to deliver the warranty deed in a timely manner, the City may withhold Final Plat approvals and/or the issuance of building permits. The developer shall provide park land free and clear of all mortgages and liens at the time of such dedication or conveyance. The developer shall have iron rods or pins set in accordance with the Final Plat or Short Form Plat. If a subdivision Plat is not required based on the standards of this Ordinance, the developer shall have iron rods or pins set at corners identified on a recordable land survey completed by a land surveyor registered in the State of Texas.

**4) Payment of Fee In-Lieu of Park Land Dedication.** In general, the Appropriate Reviewing Authorities shall favor the dedication of park land over the payment of a fee in-lieu of park land dedication for single-family and two-family subdivisions except for multi-family development unless such Plat or multi-family development contains land identified as park land. However, the Appropriate Reviewing Authority may require a developer to pay a fee in-lieu of park land dedication in accordance with the following:

- a) If the amount of park land required to be dedicated is less than three (3) acres, the Appropriate Reviewing Authority may require a fee in-lieu of land dedication.
- b) Such fee shall be in the amount of \$1,050 per dwelling unit.

- c) The developer shall pay the in-lieu fee to the City prior to approval of the Final Plat, Short Form Plat, or, in the case of multi-family development, prior to site development permit approval.

**5) Park Improvements**

- a) In addition to the required dedication of land or fees in-lieu of land dedication as set forth above, the developer shall also pay a park improvements fee to the City prior to approval of a Final, or, in the case of multi-family development, prior to site development permit approval. Such park improvements fee shall be sufficient to provide for the development of amenities and improvements on the dedicated land to meet the standards for a neighborhood park to serve the area in which the subdivision is located. The park improvements fee shall be calculated on the basis of \$400 per dwelling unit.
- b) In lieu of payment of the park improvements fee, the Appropriate Reviewing Authorities may approve a plan from the developer to construct park improvements. This plan shall meet the following standards:
  - i) All plans and specifications for the construction of such amenities and improvements shall be reviewed and approved by the City.
  - ii) Amenities and improvements shall include one (1) or more children's play areas, picnic areas, game court areas, turf play fields, swimming pools, recreational buildings, trails (sidewalks, walkways, or bike trails), and landscaped sitting areas.
  - iii) The value of amenities and improvements shall be greater than or equal to \$400 per residential dwelling unit.
  - iv) All park areas and playground equipment shall be in accordance with the U.S. Consumer Products Safety Commission - Publication 325, as currently amended and in accordance with current provisions of the Americans with Disabilities Act.
  - v) These park improvements shall be completed to the satisfaction of the City Building and Planning Department prior to release of fiscal surety or, in the case of a multi-family development, prior to issuance of a certificate of completion or a certificate of occupancy for the project.
- c) These park improvements shall be designed, reviewed and permitted in conjunction with a Site Development Permit application and/or subdivision Construction Plans as deemed appropriate by the City Building and Planning Department.

**6) Privately Owned & Maintained Parks.** The Appropriate Reviewing Authorities may approve a plan from the developer to provide privately owned and maintained park land and park improvements meeting all requirements of this section in-lieu of public park land dedication and public park improvements. However the Appropriate Reviewing Authorities shall not approve a plan for privately owned park land and park improvements if such land is shown in the City Parks, Recreation & Open Space Master Plan as land to meet strategic needs for future parks and/or trails. In addition, such plan shall meet the following:

- a) Private ownership and perpetual maintenance of such areas and facilities shall be adequately provided for by recorded written agreement, conveyance, and/or restrictions.
- b) The use of such areas and facilities shall be restricted to park and recreational purposes by a recorded covenant, which runs with the land in favor of the future owners of property, and which cannot be defeated or eliminated without the consent of the Council.

**7) Alternative Park Land Dedication and Park Improvements Plan.** The Appropriate Reviewing Authorities may approve a plan from the developer for an alternative park land dedication and park improvements plan meeting the following standards.

- a) If all other standards of this section are met, the amount of park land to be dedicated may, if approved by the Appropriate Reviewing Authorities, be reduced, if the reduced value of the land dedication is compensated by an equal or larger increase in the value of park improvements. However, in no case shall the amount of park land dedicated, whether private or public, be less than seventy five percent (75%) of the amount required by this section. The calculation to convert park land value to additional park improvements shall be determined based on how much fee in-lieu would be required to compensate for the park land deficiency and by adding this dollar amount to the required dollar value of park improvements.

For example, If twenty acres is required to be dedicated as park land, and the applicant proposes 16.5 acres there would be a park land deficiency of 3.5 acres. 3.5 acres is equivalent to 100 residential units worth of park land dedication and the fee in lieu of park land dedication is equivalent to \$1,050 per unit. Therefore, the amount of park improvements could be increased by \$105,000 (100 units times \$1,050).

- b) If all other standards of this section are met, the amount of park improvements may, if approved by the Appropriate Reviewing Authorities, be reduced, if the reduced value of such improvements is compensated by an equal or greater increase in the value of park land to be dedicated. The calculation to convert park improvements value to additional park land shall be determined based on reducing the required park improvements dollar value by not more than the fee in-lieu dollar value of the additional park land to be dedicated.

For example: If \$500,000 worth of park improvements is required, and the applicant proposes \$395,000 worth of improvements, this would amount to a \$105,000 deficiency in park land improvements. Dividing this number by the fee in lieu value of park land required per unit (\$1,050) yields 100 units ( $\$105,000/\$1,050 = 100$ ). The park land requirement for 100 units is 3.5 acres. Therefore, an additional 3.5 acres of land could be dedicated in lieu of \$105,000 of improvements.

- 8) Park Fund Established.** The City hereby creates a separate fund to be entitled "Park Fund." Money, and the interest on such money, collected as a fee in-lieu of park land dedication, and park improvements fees, shall be held in said fund in trust to be used by the City solely and exclusively for the purpose of purchasing, improving, and/or renovating public park and recreational land and shall not be used for maintaining or operating public park facilities. Improvements to public park and recreational land includes public art installations. The Park Fund will contain a category entitled "Park Public Art Fund" where fifteen percent (15%) of fee-in-lieu and park improvements fees, and interest on such money, will be held to be used for public art in public parks and recreational land; provided that the City Council may, from time to time, authorize use of the funds for purchasing parkland or non-public art improvements or renovations when determined necessary in relation to a particular public park project. Such fund shall be invested or held in an interest-bearing account and all earnings and interest shall accrue to the Park Fund.

- 9) Subdivision Changes.** In the event a developer obtains Council approval to deviate from the approved Preliminary Plat thereby increasing the number of dwelling units projected, or where the use of property is changed from a non-residential use to a residential use, the owner or developer shall be obligated to provide additional land or fees for the park land and amenities required for the additional dwellings in accordance with this section prior to the City approving the Final Plat for recordation.

- 10) Phasing Plan.** If a developer proposes a multi-phased residential subdivision or other residential

development, the developer shall submit a proposed park phasing plan to indicate a plan for phasing park land dedication and/or park improvements to coincide with the development phasing. This park phasing plan shall be approved in conjunction with the park plan as provided by this section. A park phasing plan shall include provisions for compliance with the standards of this section for all phases of the development. A phasing plan may propose park land, park improvements and/or fee in-lieu in an early phase of development to fulfill requirements of a later phase of development, but in no case shall a phasing plan propose park land, park improvements and/or fee in-lieu in a later phase of development to fulfill requirements of an earlier phase of development unless the developer provides adequate fiscal surety with the earlier phase of development. Such fiscal surety shall be in a form that shall not expire unless specifically released by the City.

**11) Fiscal Surety.** Except for multi-family development, prior to Final Plat or Short Form Plat approval, the developer shall provide fiscal surety for the completion of all park improvements that comply with this subsection), and the fiscal surety shall be in a form acceptable to the City Administrator and the City Attorney. Unless otherwise approved, such fiscal surety shall be in the form of a letter of credit from a major lending institution, or cash held in escrow. Such fiscal surety shall be held by the City until either the City has accepted all public park improvements and title to the public park land, or the City has approved on final inspection all private park improvements. Such fiscal surety shall be in a form that shall not expire unless specifically released by the City.

#### **PARK LAND DEDICATION AND PARK IMPROVEMENTS OPTION SUMMARY**

(The Appropriate Reviewing Authorities shall determine which option is acceptable.)

##### **Option 1. Land Dedication + Park Improvements Fee**

3.50 acres per 100 dwelling units + Park Improvements Fee (\$400 per dwelling unit)

##### **Option 2. Land Dedication + Park Improvements**

3.50 acres per 100 dwelling units + Park Improvements

(A minimum of \$400 per dwelling unit must be spent on park improvements that meet City specifications)

##### **Option 3. Fee-in-Lieu of Land Dedication**

\$1,050 per dwelling unit + Park Improvements Fee (\$400 per dwelling unit)

##### **Option 4. Privately Owned and Maintained Parks**

Private park land and park improvements meeting the standards of this Section.

##### **Option 5. Alternative Park Land Dedication and Park Improvements Plan**

A customized plan that may include combinations of all other options.