

**CITY OF MARSHALL
ORDINANCE 25-008**

**AN ORDINANCE AMENDING CHAPTER 66, ARTICLE III, SECTION 102 PUBLIC
SITES AND OPEN SPACES**

The Common Council of the City of Marshall do ordain:

SECTION 1: AMENDMENT “Section 66-102 Public Sites And Open Spaces” of the Marshall Municipal Code is hereby *amended* as follows:

A M E N D M E N T

Section 66-102 Public Sites And Open Spaces

- (a) Purpose. In subdividing land or re-subdividing an existing plat, due consideration shall be given by the subdivider, and by the planning commission upon review, for the development, dedication, or reservation of suitable sites for schools, conservation areas or other public or semipublic recreation areas, or parks and open spaces.
- (b) ~~Parks.~~ Findings. The city has certain needs in relation to meeting the demand for public facilities, open spaces and parks. In relation thereto, the city has undertaken certain studies and has dedicated time to analyzing these needs. As a result, the city has set as a priority:
- (1) That the city needs to provide a wide variety of park type facilities, community centers, open space and trails to meet the recreational needs of residents and businesses, to encourage exercise and a sense of physical well-being, to connect the community and to enhance the aesthetic sense of the community.
 - (2) ~~Payment of park land development fees will be required when any property within the city limits is subdivided and zoned residential or business (commercial), upon the sale of any lot within said subdivision. The fee will be paid to the city by the purchaser of the lot within said subdivision in accordance with current "Resolution Approving Specific Fees to be Charged by the City of Marshall." Any park land development fees paid to the city shall be placed in a special fund to be used for the acquisition of park lands or development of parks under the jurisdiction of the city.~~ Residents and businesses of the city are requesting a greater depth and breadth of recreational facilities.
 - (3) ~~The location of such park lands shall be recommended for approval to the city council by the community services department.~~ The city has determined that as more people use city recreational facilities and as the city's population and businesses increase, there is a significant need for additional recreational facilities and trails within the community.

- (4) The city finds that increased residential and commercial development directly increases the need for parks and trails and there is a reasonable relationship between the increased demand for these improvements caused by new development and the city's dedication requirements.
 - (5) The city has further determined that parks and trails are needed as new development is constructed, and that it is fair to require that these facilities be constructed at the time of development at the sole expense of the project developer or subdivider.
- (c) Applicability. This Section shall be applicable for all development in districts zoned, or intended to be zoned, residential or business (commercial) involving subdivisions, other than for lot splitting or minor subdivisions within existing developments that are not anticipated to be more intensively developed or expanded following the split or minor subdivision. Previously subdivided property from which land dedication or park dedication fee has been received and is being re-subdivided with the same number of lots is exempt from park dedication requirements.
- (d) Land Dedication.
 - (1) At the time of subdivision of land within the city, there must be dedicated or preserved to the public a reasonable portion of buildable land, for public use for parks, recreational facilities, playgrounds, trails, or public open space, land or public park easements or case equivalent determined in the manner set forth in this Section. For purposes of this Section, buildable land or buildable lot means a lot or combination of lots or outlots which meet all of the requirements of the zoning regulations of the city and this section for the intended purpose. The developer or subdivider of a project covered under section (c) above shall be required to dedicate for public use a suitable tract of land within the boundaries of the development which shall not include land dedicated for streets, roadways, drainage or similar uses. Land shall not be dedicated as parks, playgrounds, or public lands until such lands have been approved by the city council for the purpose for which they are to be dedicated. Such dedication of land for a park or trail for public use shall be without restrictions or reservations and shall be transferred by deed or dedicated to the city or, at the city's sole discretion, to a homeowner's association approved by the city council. The developer or subdivider shall improve such dedicated land or trail to a condition approved by the city council and included in a developer or subdivider's agreement. This requirement shall not apply to tax parcel combinations or splits, lot line adjustments, conversions of apartments to condominiums, or internal leasehold improvements that do not result in a net increase in the number of residential dwelling units.
 - (2) City Administrator or City Administrator's designee, and the developer or subdivider, shall determine the location and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, and future needs of the proposed development. City Administrator or their designee may decline any such proposed dedication by responding in writing within ten (10) business days to the developer or

subdivider. In such case, the developer or subdivider may be required to make a payment-in-lieu of dedication in accordance with subsection (e) below.

- (3) The location of such parklands shall be recommended for approval to the city council by the City Administrator or their designee.
- (4) Completion of certain components (such as installation of trails or neighborhood parks) may be delayed until a date determined acceptable to the city and included within the developer or subdivider's agreement provided that adequate financial security in a form acceptable to the city attorney is furnished by the developer or subdivider to the city.

(e) *Park Dedication Fee.*

- (1) As an alternative to the land dedication, the developer or subdivider may be required to pay an applicable park dedication fee for its development type to further either the Council's (i) park and open space plan or its (ii) park, trail and open space component of its comprehensive plan. The park dedication fee shall be based on a reasonable estimate of the fair market value of the buildable land that is being developed or redeveloped as determined by the County Assessor or other relevant factors, and shall include the value added by existing utilities, streets and other public improvements serving the property, but shall not include the value added of all other existing improvements on the land. The park dedication fee shall not exceed the amount stated in the fee schedule.
- (2) Payment of park land development fees shall be paid by the developer or subdivider prior to the release of the final plat or subdivision approval, or at the time of payment of fees for the building permit that authorizes the construction of the main structure on a parcel. Due to either the proximity of existing public parkland or considerations of the size of the development being better served by a community or regional park, the developer or subdivider may request a reduction from the City Administrator or their designee in the public parkland dedication requirement of up to one hundred (100%) of the payment in-lieu, in accordance with the parameters stated herein. Any recommendation of reduction in the fee shall be approved by Council. Any refusal of a request for a reduction in fees may be appealed to the City Council within thirty (30) days of the denial.
- (3) In reviewing the fees, the City may consider, among other things, criteria which includes:
 - a. comprehensive plan requirements for maintaining open space and any percentages included in that plan;
 - b. number of households or increase in population of the development and guidance from the comprehensive plan or zoning;
 - c. the unique individualized circumstances present, if any, in the application, which make a dedication, dedication fee, or the amount of either, inappropriate in the specific case;
 - d. the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision;

and,
e. the basis for the applicant's contention, if any, that the intent and purpose of city's code related to public dedication can be accomplished without a dedication and/or cash fee in lieu of dedication, or a dedication and/or cash fee in lieu of dedication at a lesser amount.

(4) Any parkland development fees paid to the city shall be placed in a special fund to be used for the acquisition of park lands or development of parks under the jurisdiction of the city.

(Code 1976, § 12.10(7); Ord. No. 607 2nd series, § 1, 3-10-2009)

SECTION 2: EFFECTIVE DATE This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

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Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall