

Section 66-102 Public Sites And Open Spaces

In subdividing land or resubdividing 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.

(a) Parks and Open Spaces

1. Findings. The city has certain needs in relation to meeting the demand for public facilities 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:

(a) 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.

(b) Residents and businesses of the city are requesting a greater depth and breadth of recreational facilities.

(c) The city has determined that as more people use city recreational facilities and its population and businesses increase, there is a significant need for additional recreational facilities and trails within the community.

(d) The city finds that increased residential, commercial and industrial 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.

(e) 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 proponent.

2. 4- Applicability.

(a) This Section shall be applicable for: (i) all development in districts zoned residential or business (commercial) involving subdivisions, and (ii) for lot splitting or minor subdivisions in existing developments that are not anticipated to be more intensively developed or expanded following the split or minor subdivision.

(b) The proponent or developer of the project covered under subdivision 2(a) herein 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 to the city or, at the city's sole discretion, to a homeowner's association approved by the city council. The project proponents shall improve such dedicated land or trail to a condition approved by the city council and included in the developer's agreement. Des minimis subdivisions may be exempted from the requirement to plat and improve a neighborhood park in the development at the sole discretion of the city council.

(c) If in the opinion of the city council in consultation with the _____, the area proposed to be dedicated is not suitable or desirable for park purposes because of location, size or other reasons, in the sole discretion of the city council the city council may require a fee in lieu of land dedication.

(d) Subject to subdivision 2(c) herein, the developer or project proponent meeting the criteria of this Section may choose to pay an applicable park dedication fee for its development type as prescribed in the city's fee schedule. Payment of park land development fees may either be paid by the developer as set forth in the development agreement or 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", unless the _____ reviews the development or project and their individualized analysis determines modification of the fee is necessary. In reviewing the fees, the City may consider, among other things, criteria which includes:

(i) comprehensive plan requirements for maintaining open space and any percentages included in that plan;

(ii) number of households or increase in population of the development and guidance from the comprehensive plan or zoning

(iii) 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;

(iv) the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision; and,

(v) 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. 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.

3. 2. The location of such park lands shall be recommended for approval to the city council by the community services department.

4. When applied. Compliance with this Section shall be completed either as a condition to approval of a subdivision or prior to issuance of a building permit, whichever occurs earliest. Park dedication fees for existing developed properties proposed for lot splitting, including but not limited to existing residential neighborhoods, shall pay the park dedication fees at the time that a request for lot splitting is submitted. 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's agreement provided that adequate financial security in a form acceptable to the city attorney is furnished by the project proponent to the city.