



# Public Sites and Open Spaces

PARKLAND DEDICATION AND FEES IN LIEU

# Basis for Parkland Fee

Parkland dedication, or, in the alternative "in-lieu fees," requires developers to either dedicate land for parks or pay a fee to the city to fund park development or improvements, trails, green spaces. This ensures that new developments either offer parks/green spaces in the development or the development, in the alternative, contributes to the public's access to parkland and recreational areas. The fees are typically used for new park construction, improvements to existing parks, and land acquisition.

# History of Marshall's Public Sites and Open Spaces

- ▶ On March 10<sup>th</sup> of 2009, City Council Adopted Ordinance Amending Section 66-102, by including Public Sites and Open Space language that would effectively allow the city to meet the needs of park development through a park land dedication fee.
  - ▶ The Parkland fee fund as of 12/31/24 is \$42,970.93
- ▶ In 2023, the Minnesota Supreme Court issued an opinion regarding Parkland Dedication and Fee in Lieu ordinances, which included findings requiring a level of discretionary considerations and appeal rights for property owners.
- ▶ In early 2024, City Administrator Hanson requested City Attorney to review the Public Sites and Open Space Ordinance
- ▶ Since early 2024, staff have been reviewing Public Sites and Open Space Ordinance revisions and presented on May 27th to L&O Committee for recommendation to the full Council .

# Parkland Dedication Statutory Background

- ▶ The enabling legislation permitting municipalities to require parkland dedication or a cash equivalent for park acquisition and development is set forth in Minnesota Statutes Section 462.358 Subd. 2b. and 2c.
- ▶ Relevant case law establishes a two-prong analysis with respect to determining the amount of parkland dedication. First, the City must establish that the proposed development will create a rational nexus for additional park facilities. Second, the City must be able to prove that the amount of the dedication is roughly proportionate to the impact from the development.
- ▶ The Court in Puce found Burnsville met that analysis by (1) presenting information substantiating a logical connection between the imposed park dedication fee and the municipal purpose sought to be achieved by the fee, and (2) by showing a “rough proportionality” by making an individualized determination that the fee is related to the impact of the proposed development. The Court also noted the importance of property owner’s right to request review of the fee by City.

# Fee in Lieu continued

- ▶ Pursuant to the state statute, cities may impose park dedication fees rather than requiring land dedication for public use. The fee may be “based on the average fair market value of the unplatted land for which park fees have not already been paid.” The subdivision statute also provides “[t]here must be an essential nexus between the fees ... and the municipal purpose sought to be achieved by the fee,” and “[t]he fee ... must bear a rough proportionality to the need created by the proposed subdivision or development.”

# Parkland Dedication Statutory Background

- ▶ The city of Marshall updated the Comprehensive Plan in December of 2022 which is a guiding document for the city's growth for the next twenty years.
  - ▶ Sets forth the framework for the continued development of the City's park and trail system.
- ▶ The city recently went forth with a Master Park Planning Services agreement that further supports the need for parkland dedication.

# Current Parkland Fee/Dedication Fee

- ▶ For any residential or commercial subdivision of property after March 10, 2009, upon initial sale
- ▶ Residential Lot \$500 per lot
- ▶ Commercial Lot 2% of gross unimproved value per commercial lot

# Future Parkland Needs

- ▶ The City's Comprehensive Plan identified a 2040 population projection of 15,637, representing a 20-year growth rate of 10.7 percent or an increase of 1,509 residents.
  - ▶ A recent MN State Demographer's Office has estimated our 2024 population as 14,029.
- ▶ Many of our parks were acquired or developed over generations of families. Due to the age of our parks, changing community needs and trends in recreation.
- ▶ In the past decade, the city has added miles of trails to its existing trail system creating linkages throughout the city, all of which require maintenance especially with increased use of population growth from development.

# Future Parkland Needs-Continued

- ▶ The City's Active Transportation Plan identified the following goals:
  - ▶ Continue to prioritize safety along trails and pathways in the city.
  - ▶ Increase walking and bicycling use year-round for all people and purposes.
  - ▶ Provide comfortable and continuous pathways that seamlessly connect neighborhoods, parks, downtown and other community destinations.
  - ▶ Ensure active transportation options are attractive and accessible to all residents and visitors.
  - ▶ Prioritize active transportation investments.
- ▶ The city's Indoor Recreation Study identified need for additional recreational space

# Revised Ordinance Recommendations

- ▶ Added findings which support the purpose of the dedication or fee in lieu
- ▶ Included required statutory language which currently is not in Code
- ▶ Clarifies that the dedication or fee in lieu applies to developments which involve subdivisions but excludes minor lot splitting or on lots for which a fee already was paid
- ▶ Sets up administrative process with specific considerations to analyze, and with the ability to request adjustments
- ▶ Incorporates that furthers Park Plan or relevant portion of Comprehensive Plan, which the Court in the Burnsville case found relevant