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#### **18.04.030 Public lands and open spaces.**

- (a) Provision of Public Lands and Open Spaces. The city shall require the dedication of land, moneys in lieu of land, and improvement fees for parks and other public lands according to the following criteria:
- (1) Land Dedication Formula. After consultation with the park and recreation commission, the city plan commission shall determine whether the dedication of land for parks or moneys in lieu thereof will better serve the public interest. Where land is to be dedicated, at least one thousand forty-seven square feet of land shall be dedicated for each residential dwelling unit proposed. If no particular number of dwelling units is proposed, the requirements shall be based on the number of dwelling units permitted by right under the proposed subdivision and the then existing zoning.
  - (2) Moneys in Lieu of Land Dedication. Where, after consultation with the park and recreation commission, the plan commission determines that money in lieu of land is to be paid, the amount of money shall be on a basis of two hundred eighteen dollars in 2002 per residential unit permitted by right under the proposed subdivision and the then existing zoning. This fee amount shall be adjusted during the first quarter of each year by a percentage equal to that of the rate of consumer inflation based on the percent of yearly change for the previous year for the Milwaukee metropolitan area as reported by the U.S. Department of Labor, Bureau of Labor Statistics.
  - (3) Park Improvement Fee. In addition to all of the above, a park improvement fee of five hundred fourteen dollars in 2002 shall be paid for each dwelling unit proposed. If no particular number of dwellings units is proposed, the requirements shall be based on the number of dwelling units permitted by right under the proposed subdivision and the then existing zoning. The city shall hold these moneys in reserve to be used for park improvement purposes. This fee amount shall be adjusted during the first quarter of each year by a percentage equal to that of the rate of consumer inflation based on the percent of yearly change for the previous year for the Milwaukee metropolitan area as reported by the U.S. Department of Labor, Bureau of Labor Statistics.
- (b) Specifications for Dedicated Land.
- (1) Unity. The dedicated land shall form a single parcel of land except where the city plan commission determines that two parcels or more would be in the public interest.
  - (2) Shape. The shape of the dedicated parcel of land shall be sufficiently square or round to be usable for recreational activities, such as softball, tennis or soccer.
  - (3) Location. The dedicated land shall be located so as to serve the recreation and open space needs of the subdivision for which the dedication was made.
  - (4) Access. Public access to the dedicated land shall be provided by adjoining street frontage of sufficient width to assure safe, comfortable access to the dedicated land and protection of nearby private properties. In unique situations, the plan commission and park and recreation commission may permit access via public access easement to the dedicated parcel. The easement shall be sufficiently wide so that the public and maintenance equipment will have reasonably convenient access to the land.
  - (5) Usability. The dedicated land shall be usable for recreation, as determined by the park and recreation commission. Wetland and stormwater management areas may be considered usable for recreational purposes if such areas provide a meaningful recreational amenity for the neighborhood as determined by the park and recreation commission, rather than simply fulfilling regulatory requirements. Where the park and recreation commission determines that the recreational needs are being adequately met, either by other dedicated parcels of land or existing recreational facilities, then the park and recreation commission and plan commission may allow land that is not usable for recreation to be dedicated and credited against park land dedication requirements. Except for natural areas as defined by the park and

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recreation director, the subdivider shall grade, topsoil, and seed the land for its intended use before it will be accepted by the city.

- (6) Plans. If specifically designated on the comprehensive (master) plan, comprehensive plan component, official map, or component neighborhood development plan, such park areas shall be made a part of the plat to the extent allowed under this section. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourses, watersheds, natural prairies and ravines.
- (c) Allocation of Moneys in Lieu of Dedicated Land and Park Improvement Fees. The city, when receiving moneys in lieu of dedicated land and park improvement fees, shall hold these moneys in separate reserve accounts to be used, respectively, for purchasing land for parks and other public open spaces and improving such lands. Where possible, these moneys shall be spent to directly fill the needs of the subdivision which generated the moneys. However, where such a practice could result in insufficient funds for any one improvement, then a set of priorities for improvements shall be established by city council resolution. These priorities shall rank order the planned acquisitions or and/or improvements. Each project or land acquisition shall be identified by the general area it is to serve. Each subdivision contributing to the general reserve funds shall be shown as planned to be benefited by one of the projects in the list of priorities unless that subdivision is already adequately served.
- (d) Credit for Private Open Space. Where private open space for park and recreational purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas shall be credited against the requirement of public land dedication for park and recreation purposes, as set forth above in this subsection or the payment of fees in lieu thereof; provided that the city park and recreation commission and plan commission find it is in the public interest to do so, and that the following standards are met:
- (1) Yards, court areas, setbacks and other open areas required to be maintained by the zoning regulations shall not be included in the computation of such private open space;
  - (2) The private ownership and maintenance of the open space must be adequately provided for by written agreement between the city and property owner or by recorded covenant;
  - (3) The use of the private open space must be restricted for park and recreational purposes by recorded covenants that run in favor of the future owners of property within the tract and the city and that cannot be eliminated without the consent of the city council, following a recommendation from the park and recreation commission; and
  - (4) The proposed open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space land.
- (e) Credit for Improvements within Private Open Space. Where private open space is used to satisfy all or part of the city's park land dedication requirements, and the subdivider agrees to install improvements within the park, such as play equipment or athletic facilities, the value of such improvements may be credited against the requirement for park improvement fees, as set forth in this subsection; provided that the city park and recreation commission and plan commission find it is in the public interest to do so.
- (f) Additional Park Land Shown on City Plans. Whenever a proposed park or other public open space land designated on the city's comprehensive (master) plan or component thereof is within a proposed subdivision, and the amount of public land suggested by said city plan is in excess of the required park land dedication requirements set forth in this subsection, the city will attempt to work with the subdivider during the concept plan and preliminary plat review stages of the subdivision to negotiate the purchase of said land. If the city elects not to purchase said land before or within this time period, then the plat need not comply with the city's comprehensive (master) plan with respect to this park land standard only.

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- (g) Lands within Extraterritorial Jurisdiction. If public dedication is not required by another governmental jurisdiction with authority, proposed public lands outside of the corporate limits of the city but within the extraterritorial jurisdiction may be reserved within outlots or public access easements if such land is identified as park or other public open space land within the city's comprehensive (master) plan subsections (a)(1), (b), (f) and (h) of this section shall provide guidance to the city in its review of all park reservations, easements, or dedications within extraterritorial subdivisions.
- (h) Access to Waterways and Drainage Ways. A subdivision abutting a navigable waterway shall, according to the provisions of Wisconsin Statutes, Section 236.16(3), provide access at least sixty feet wide to the low water mark so that there will be public access, which is connected to existing public roads, at one-half-mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the State of Wisconsin, and excluding shore areas where public parks or open space, streets, or roads on either side of a stream are provided. When immediately surrounding land is included in a final plat or certified survey map, the city shall require a public access easement, reservation, or land dedication along navigable waterways where public access is recommended by the city's comprehensive (master) plan or components thereof, with such easement or dedication being of sufficient width to accommodate the level of access anticipated. Such dedication, easement, or reservation may be credited against the park land dedication requirements specified in this subsection.

(Ord. 1510 §1(part), 2002).