

## PARKS, OPEN SPACE, AND PUBLIC USE

### § 152.080 DEDICATION REQUIREMENTS.

(A) The City Council recognizes that the preservation of land for park, open space, and public use is essential to the health, safety, and welfare of residents of the city. Therefore, pursuant to M.S. § 462.358, subd. 2b, as it may be amended from time to time, the Council shall require all developers requesting platting or replatting of land to be used for residential purposes in the city to contribute an amount of land for public park and pathway purposes. The location of the land shall be at the discretion of the Council.

(B) The amount of the land shall be reasonably commensurate with demand that the platting or replatting places on the city park system, as described in the Comprehensive Plan. For purposes of this section, an amount of land equal to 11% of the total gross land area of the plat shall be presumptively defined as **REASONABLY COMMENSURATE**.

(C) In the event that the subdivider objects to the 11% standard, the city shall, at the developer's request and expense, conduct a specific dedication study of the park system and the demand placed on the system by the proposed plat. Prior to conducting the study, the city shall obtain a waiver of statutory time lines for plat approval during the conduct of the study. No approval of final plats, nor construction of any improvements, shall occur until the park dedication study is completed. In lieu of land dedication, the City Council may require a cash contribution in accordance with state statutes or a combination of both. The Council's decision on land and/or cash shall be made following recommendations from the city's Park and Recreation Commission and staff, in accordance with the Comprehensive Plan.

(D) In accordance with state statutes, where the City Council determines that the park dedication requirements shall be paid in a cash contribution, the amount of the contribution shall be based on the market value of the raw land not later than at the time of final plat.

(E) The city may require that the subdivider provide an appraisal or other comparable documentation to determine the market value. In the alternative the city may, by ordinance, establish a fee per residential unit that will meet the cash dedication requirement. The determination of the appropriate fee calculation shall be made by the City Council.

(F) (1) To be eligible for park dedication credit, the land to be dedicated as a requirement of this section shall be useable, developable land.

(2) The City Council shall not accept for credit against a subdivider's park dedication requirement any of the following:

(a) Delineated wetlands;

(b) Land within a designated floodplain;

(c) Land encumbered by a utility easement such as a petroleum or electric power transmission line (except where such easement is a standard platting requirement of the city pursuant to § 152.061, and where the city determines that the land within the easement will be usable for park, trail,

or open space purposes); or

(d) Land within a drainage easement or other land required for stormwater treatment.

(G) The city may, at its discretion, accept lands in the above categories for park dedication purposes if it deems the dedication to be of public benefit. No credit shall be given against the subdivider's park dedication requirement, however, unless the city determines that the land will be used for a specific public park, pathway, or open space purpose.

(H) Land dedicated for park purposes shall be transferred to the city by warranty deed. The transfer of the land shall occur at the time of recording of the final plat. For multiple-phased developments, all of the park dedication land shown on the approved preliminary plat shall be transferred to the city upon recording of the first final plat, in the form of outlot(s) at the discretion of the city, and shall not be shown as "park" on the plat. The development agreement may permit the phasing of the land transfer.

(I) In addition, the development agreement shall grant the subdivider a license to enter the park dedication land for the purposes of required grading, seeding, or other work approved by the City Council.

(J) Parkland dedication requirements for residential planned unit developments (PUDs) shall provide the minimum of 11% for park, open space, or public use or cash in lieu of land per this chapter.

(K) The removal of trees, topsoil, storage of construction equipment, burying of debris, or stockpiling of surplus soils is strictly prohibited on land to be dedicated per this section.

(L) The subdivider shall provide the city with a certificate of survey that shows all features of the land to be dedicated.

(M) Agreements in this section shall be made as part of the development agreement presented for approval with the final plat. Failure of the City Council and subdivider to reach agreement regarding the matters in this section shall constitute the basis for consideration to deny the plat.

### § 152.081 CASH CONTRIBUTION.

All monies collected from cash contributions shall be placed in a special fund from which only those public uses as listed in above may be constructed or improved or land for those same uses may be acquired.

#### **§ 152.082 COMBINATION OF LAND DEDICATION AND CASH CONTRIBUTION.**

A combination of land and cash may be required and approved by the City Council in satisfaction of the requirements of this chapter. In the event a combination of land and cash is required, the amount of land to be dedicated shall be credited against the total park dedication requirements and the remaining cash contribution shall be based on the percent of the remaining unfulfilled park dedication obligation.

#### **§ 152.083 DELAYED DEDICATION PAYMENT.**

(A) Upon petition by the developer, the City Council may approve a delay in the actual dedication of the cash required in lieu of land until such time as development occurs on the property being platted, provided that a proper legal agreement is executed guaranteeing such dedication.

(B) Delayed dedication payment may be subject to interest payment per year as set by the Council.

#### **§ 152.084 PURCHASE OR CONDEMNATION OF LANDS.**

(A) Where a proposed park, playground, or other recreational area, proposed school site, or other public ground that has been indicated in the official map and/or master plan is located in whole or in part within a proposed subdivision, the proposed public site shall be designated as such and should be dedicated to the city, school district, or other proper governmental unit.

(B) If the subdivider chooses not to dedicate an area in excess of the land required hereunder for such proposed public site, the City Council may consider acquiring the site through purchase or condemnation.

#### **§ 152.085 LOCATION AND CONFIGURATION OF DEDICATION.**

In such cases where the developer is required to dedicate land area, the City Council shall have the right to determine the geographic location and configuration of the dedication.