

**ORDINANCE NO.**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25-1 AND ORDINANCE NO. 20070621-027 RELATING TO PARKLAND DEDICATION AND ASSOCIATED PARKLAND FEES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The City Council makes the following findings:

- A. Core principles of the *Imagine Austin Comprehensive Plan* envision the City of Austin as a healthy community, with ample recreational opportunities and open space integrated into a compact and connected city.
- B. Since 1985, the City of Austin has required new development to dedicate parkland or pay a fee in-lieu of dedication consistent with well-established case law recognizing municipal authority to require parkland dedication.
- C. With the adoption of Resolution No. 20141211-219, the City Council initiated amendments to update the City of Austin's parkland dedication to better achieve the goals of *Imagine Austin* and better align the City's parkland requirements with those of peer cities.
- D. The current fee in-lieu of parkland dedication in Austin has not changed since 2007 and is among the lowest in the state and the country.
- E. The City's Parkland Dedication Fee Methodology Report ("Report") issued on November 19, 2014, concluded that the existing parkland dedication fee does not cover costs for acquiring and developing parkland and that the current formula for determining the amount of land required to be dedicated is insufficient to maintain the current quality of life.
- F. Professor John L. Crompton, a Texas expert on Parkland Dedication ordinances, advised the Parks and Recreation Department that a fair parkland dedication fee should maintain existing residents' level of park service and be based on a per-person assessment method.
- G. The amendments adopted by this ordinance reflect the findings in the Report, as well as the advice of Professor Crompton, and will ensure that new growth and development contribute its fair share towards maintaining the City's park system.

1 **PART 2.** City Code Chapter 25-1, Article 14 (*Parkland Dedication*) is amended to read:

2 **ARTICLE 14. - PARKLAND DEDICATION.**

3 **§ 25-1-601 GENERAL PROVISIONS [APPLICABILITY].**

4 (A) The City of Austin has determined that recreational areas in the form of public  
5 parks are necessary for the well-being of residents. The City has further  
6 determined that the approval of new residential development is reasonably  
7 related to the need for additional parkland and park amenities to serve new  
8 development. This article establishes a fair method for determining parkland  
9 dedication, or the payment of a fee in-lieu of dedication, to be required as a  
10 condition to the approval of new development in an amount proportionate to the  
11 impact of development on existing parks and established levels of service.

12 (B) Except as otherwise provided in this section [Subsections (B) and (C)], the  
13 parkland dedication requirements of this article apply to:

- 14 (1) a residential subdivision [subdivisions] within the planning jurisdiction;  
15 (2) a site plan [plans] within the zoning jurisdiction that includes residential  
16 units [with three or more dwelling units]; and  
17 (3) a residential building permit [permits], as provided under Section 25-1-  
18 608 [25-1-606] (*Dedication of Land or Payment In-Lieu at Building*  
19 Permit).

20 ~~[(B) This article does not apply in the portion of the City's extraterritorial~~  
21 ~~jurisdiction that is within Travis County. Parkland dedication for that area is~~  
22 ~~governed by Title 30 (*Austin/Travis County Subdivision Regulations*).]~~

23 (C) The following are exempt from the requirements of this article:

- 24 (1) ~~[a plat with not more than four lots designated for a single-family~~  
25 ~~residential use that may be approved without a preliminary plan;~~  
26 (2) ~~a resubdivision of land that does not increase the number of dwelling~~  
27 ~~units or lots by more than three;~~  
28 (3) ~~a subdivision for which a preliminary plan was approved after June 30,~~  
29 ~~1984 and before July 8, 1985;~~  
30 (4) ~~a subdivision or site plan within a municipal utility district that has a~~  
31 ~~consent agreement and land use plan approved by the City that provides~~  
32 ~~for the dedication of parkland or recreational facilities or the payment of~~  
33 ~~fees instead of dedication of the parkland or facilities; and~~

- 1           (5)] a subdivision or site plan for which parkland was previously dedicated or  
2           payment made under this title, except for the dwelling units or lots that  
3           exceed the number for which dedication or payment was made[-];
- 4           (2) development within the City’s extraterritorial jurisdiction that is within  
5           Travis County and governed by Title 30 (Austin/Travis County  
6           Subdivision Regulations); and
- 7           (3) affordable dwelling units that are certified under the S.M.A.R.T. Housing  
8           Policy approved by the city council.

9           (D) The following definitions apply throughout this article:

- 10           (1) DIRECTOR means the director of the Parks and Recreation Department.
- 11           (2) DISTRICT PARK means a park of 31 to 100 acres with a two-mile  
12           service area.
- 13           (3) GREENWAYS means a multi-functional linear park that:
- 14                   (a) links two or more separate parks;
- 15                   (b) serves as a wildlife corridor;
- 16                   (c) provides flood control; or
- 17                   (d) contains routes for non-motorized vehicles.
- 18           (4) METRO PARK means a park of 200 or more acres that serves the entire  
19           city.
- 20           (5) NEIGHBORHOOD PARK means a park of two to thirty acres with a  
21           one-mile service area.
- 22           (6) POCKET PARK means a park of no more than two acres with a one-  
23           quarter mile service area.

24

25           **§ 25-1-602 DEDICATION OF PARKLAND [REQUIRED].**

- 26           (A) Except where payment of a fee in-lieu of dedication is allowed under Section  
27           25-1-605 (Fee In-Lieu of Parkland Dedication), a [A-subdivider] subdivision or  
28           site plan applicant shall provide for the parkland needs of the residents by the  
29           dedication of suitable land for park and recreational purposes under this article.
- 30           (B) For a subdivision, the area to be dedicated must be shown on the preliminary  
31           plan and ~~[the]~~ final plat as “Parkland Dedicated to the City of Austin [and  
32           included in the dedication statement].” The subdivider shall dedicate to the  
33           City all parkland required by this article when a plat is approved.

1 (C) For a site plan, the area to be dedicated must be shown on the site plan as  
 2 “Parkland Dedicated to the City of Austin” and in a deed to the City. The  
 3 applicant shall dedicate the parkland required by this article to the City by deed  
 4 ~~[all parkland required by this article]~~ before the site plan is approved, except  
 5 that dedication may be deferred until issuance of a certificate of occupancy if  
 6 construction of amenities is authorized under Section 25-1-605 (Fee In-Lieu of  
 7 Parkland Dedication) or Section 25-1-606 (.

8 (D) For a building permit that is subject to 25-1-608 ~~[25-1-606]~~ (*Dedication of*  
 9 *Land or Payment In-Lieu at Building Permit*), the area to be dedicated must be  
 10 shown in a deed to the City. The applicant shall dedicate to the City all parkland  
 11 required by this article before a building permit is issued.

12 (E) The amount of parkland required to be dedicated to the City is ~~[five]~~ 9.4 acres  
 13 for every 1,000 residents, as determined by the following formula:

$$\frac{9.4 \text{ [5]} \times (\text{Number of Units})}{\text{x (Residents Per Unit)}} = \text{Acres of parkland}$$


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1000

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 16  
 17  
 18 (F) In calculating the amount of parkland to be dedicated under this section, the  
 19 number of residents in each dwelling unit is based on density as follows:

<b><u>Density Classification</u> [<del>Dwelling Units Per Acre</del>]</b>	<b><u>Residents In Each Dwelling Unit</u></b>
<i>Low Density:</i> Not more than 6	2.8
<i>Medium Density:</i> More than 6 and not more than 12	2.2
<i>High Density:</i> More than 12	1.7

20  
 21 (G) If the density of a development is not known:  
 22 (1) the density is assumed to be the highest permitted in the zoning district,  
 23 or if the property is not zoned, 24 dwelling units per acre; or  
 24 (2) for a residential subdivision within the extraterritorial jurisdiction, the  
 25 applicant ~~[developer]~~ may reduce the assumed density by ~~[restricting~~  
 26 ~~density in a restrictive covenant]~~ agreeing, in a manner that is  
 27 enforceable by the City and approved by the city attorney, that any  
 28 subsequent increases in density may require additional dedication of

1 parkland under this section or payment of a fee in-lieu of dedication  
2 under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*).

3 (H) The subdivision [~~subdivider~~] or site plan applicant shall pay all costs of  
4 transferring the parkland to the City, including the costs of:

- 5 (1) an environmental site assessment without any further recommendations  
6 for clean-up, certified to the City not earlier than the 120th day before the  
7 closing date;
- 8 (2) a Category 1(a) land title survey, certified to the City and the title  
9 company not earlier than the 120th day before the closing date;
- 10 (3) a title commitment with copies of all Schedule B and C documents, and  
11 an owner's title policy;
- 12 (4) a fee simple deed;
- 13 (5) taxes prorated to the closing date;
- 14 (6) recording fees; and
- 15 (7) charges or fees collected by the title company.

16 (G) Development within a Planned Unit Development (PUD) zoning district may be  
17 subject to additional parkland requirements and may be entitled to count  
18 dedicated parkland towards meeting open space requirements under Chapter 25-  
19 2, Article 2, Division 5 (*Planned Unit Developments*).

20  
21 **§ 25-1-603 STANDARDS FOR DEDICATED PARKLAND.**

22 (A) In addition to the requirements of this article, land [~~Land~~] to be dedicated as  
23 parkland must meet the requirements of this subsection[:].

24 (1) Parkland must be easily accessible to the public and open to public view  
25 so as to benefit area residents, enhance the visual character of the City,  
26 protect public safety, and minimize conflicts with adjacent land uses.

27 (2) On-street and off-street connections between residential neighborhoods  
28 shall be provided, wherever possible, to provide reasonable access to  
29 parks and open space areas.

30 (3) In addition to the requirements of this subsection, parkland must comply  
31 with the standards in the Comprehensive Plan, the Park and Recreation  
32 [~~Action~~] Long-Range Plan, the Environmental Criteria Manual  
33 [~~Administrative Criteria Manual~~], and the Parkland Dedication Operating  
34 Procedures [~~this section~~].

35 (B) The director [~~of the Parks and Recreation Department~~] shall determine whether  
36 land offered for dedication complies with the standards for dedication under

1 Subsection (A) of this section and may require a subdivision or site plan  
2 applicant to provide information deemed necessary to determine compliance.

3 (C) Fifty percent of acreage in the 100 year floodplain that is dedicated as parkland  
4 may be credited toward fulfilling the requirements of this article if any [the]  
5 adjoining land within the 25 year floodplain[~~, if any,~~] is also dedicated as  
6 parkland. The land within the 25 year floodplain may not be credited toward  
7 fulfilling the requirements of this article.

8 (D) Land identified on the [~~Critical Areas~~] Deficient Parkland Area Map maintained  
9 by the Parks and Recreation [~~Watershed Protection and Development Review~~]  
10 Department that does not otherwise comply with the standards for parkland  
11 dedication may be accepted as dedicated parkland if the director [~~of the Parks~~  
12 ~~and Recreation Department~~] determines that the land will provide recreational  
13 or educational opportunities for the surrounding community. In this event, 50  
14 percent of the acreage may be credited toward fulfilling the requirements of this  
15 article.

16  
17 **§ 25-1-604 PRIVATE PARKLAND.**

18 (A) The director [~~of the Parks and Recreation Department~~] may allow up to a 50  
19 percent credit toward fulfilling the requirements of:

20 (1) Section 25-1-602 (*Dedication of Parkland*) [this article] for privately  
21 owned and maintained parkland [park and recreational facilities] or  
22 recreational easements that are available for use by the public; and

23 (2) Section 25-1-606 (*Parkland Development Fee*) for recreational facilities  
24 that are located on privately owned and maintained parkland and  
25 available for use by the public.

26 (B) The director [~~of the Parks and Recreation Department~~] may allow up to a 100  
27 percent credit toward fulfilling the requirements of this article for private  
28 parkland in a subdivision or site plan located outside the city limits, if:

29 (1) the director [~~of the Parks and Recreation Department~~] determines that the  
30 private parkland meets City parkland standards; and

31 (2) the land owner agrees to dedicate the private parkland to the City when  
32 the City annexes the land for all purposes.

33 (C) If private parkland will include construction of recreational amenities, the  
34 applicant must post fiscal surety in an amount equal to the fee in-lieu provided  
35 for under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) and the  
36 development fee required under Section 25-1-606 (*Parkland Development Fee*).  
37 The fiscal surety must be posted:

- 1           (1) before final plat approval; or  
2           (2) before site plan release, for any portion of the subdivision that will  
3                 require a site plan.

4       (D) ~~[Private parkland excludes yards]~~ Yards, setback areas, and private personal  
5       open spaces required by this title may not be counted as private parkland under  
6       this section, except for a required setback or yard that includes a public trail.

7       (E) Private common open space designated as a condition to site plan approval  
8       under Chapter 25-2, Subchapter E, Section 2.7 (*Private Common Open Space*  
9       and *Pedestrian Amenities*) may count up to 50 percent towards the amount of  
10       parkland dedication required by this article if the land:

11           (1) satisfies the requirements of Section 25-1-603 (*Standards for Dedicated*  
12                 Parkland);

13           (2) includes one or more of the optional active amenities in Paragraphs 4-9  
14                 of Chapter 25-2, Subchapter E, Section 2.7.3 (*Standards*); and

15           (3) is open to the public.

16  
17  
18       **§ 25-1-605 FEE IN-LIEU OF PARKLAND DEDICATION [PAYMENT INSTEAD**  
19       **OF LAND].**

20       (A) In lieu of the dedication of land required by Section 25-1-602 (*Dedication of*  
21       *Parkland*), the [The] director [of the Parks and Recreation Department] may  
22       require or allow a [subdivider] subdivision or site plan applicant to[:] deposit  
23       with the City a [cash payment or fiscal security instead] fee in-lieu of [the]  
24       parkland dedication of parkland if:

25           (1) less than six acres is required to be dedicated; or

26           (2) the land available for dedication does not comply with the standards for  
27                 dedication.

28       (B) ~~[A subdivider must make the deposit before the subdivision may be approved,~~  
29       except that for the portion, if any, of the subdivision that requires a site plan, the  
30       subdivider may defer the deposit until after a site plan is filed.] The director  
31       shall determine whether to require or allow payment of a fee in-lieu of  
32       dedication under this section based on the feasibility of dedicating parkland and  
33       whether the land available for dedication, if any, would help to maintain or  
34       enhance the City's park system. In making this determination, the director shall  
35       consider whether the proposed subdivision or site plan:

36           (1) is located within the Deficient Park Area Map;





1 parks, pocket parks, and greenways, as determined by the director prior  
2 to adoption of the annual fee ordinance by the city council.

3 ~~[deposit is determined by multiplying the number of dwelling units by the parkland~~  
4 ~~cost for each dwelling unit, excluding the affordable dwelling units. The~~  
5 ~~determination is made on the date of the deposit using the most recent parkland cost~~  
6 ~~for each dwelling unit. In this subsection:~~

7 (1) ~~The number of dwelling units is:~~

8 (a) ~~for a deposit made at the time of subdivision, calculated in~~  
9 ~~accordance with Section 25-1-602 (Dedication Of Parkland~~  
10 ~~Required); or~~

11 (b) ~~for a deposit made at the time of site plan, the number shown on~~  
12 ~~the site plan.~~

13 (2) ~~The parkland cost for each dwelling unit is:~~

14 (a) ~~based on a report by the city manager that analyzes of the costs of~~  
15 ~~acquiring and developing parkland and determines the~~  
16 ~~proportionate share of those costs attributable to new residential~~  
17 ~~development;~~

18 (b) ~~approved by council; and~~

19 (c) ~~periodically reviewed by the city manager and council.~~

20 (3) ~~Affordable dwelling unit means a dwelling unit that is certified by the~~  
21 ~~director of the Neighborhood Housing and Community Development~~  
22 ~~Department as being reasonably priced under the S.M.A.R.T. Housing~~  
23 ~~Program standards adopted by council resolution for rental or purchase~~  
24 ~~by a household earning not more than 80 percent of the median family~~  
25 ~~income for the Austin statistical metropolitan area.~~

26 (E) ~~A deposit must be placed in the City's Neighborhood Park and Recreation~~  
27 ~~Improvement Fund. The deposit must be used for the acquisition or~~  
28 ~~improvement of neighborhood parks that will benefit the residents of the~~  
29 ~~subdivision or site plan and that are located in the service area defined by the~~  
30 ~~Parks and Recreation Department.~~

31 (F) ~~The City shall expend a deposit within five years from the date it is received.~~  
32 ~~This period is extended by five years if, at the expiration of the initial five year~~  
33 ~~period, less than 50 percent of the residential units in the subdivision or on the~~  
34 ~~site plan have been constructed.~~

1 ~~(G) If the City does not expend a deposit by the deadline described in Subsection~~  
2 ~~(F), and the actual number of residential units constructed is less than the~~  
3 ~~number assumed at the time the deposit was calculated, the owner may request~~  
4 ~~a refund. The request must be in writing and filed with the director of the Parks~~  
5 ~~and Recreation Department not later than 180 days after the expiration of the~~  
6 ~~time period described in Subsection (F). A refund is calculated by multiplying~~  
7 ~~the percentage of the reduction in the number of residential units times the~~  
8 ~~amount of the deposit. A refund may not exceed the unexpended amount of a~~  
9 ~~deposit.]~~

10  
11 **§ 25-1-606 PARKLAND DEVELOPMENT FEE.**

12 (A) Except as provided in Subsection (C), an applicant must pay a parkland  
13 development fee as a condition to subdivision or site plan approval in order to  
14 ensure that land is developed with recreational amenities sufficient for park use.

15 (B) The amount of the development fee is determined according to the density  
16 classification established by Section 25-1-602(F) (*Dedication of Parkland*) in  
17 the manner prescribed by this subsection.

18 (1) Parkland Development Fee:

<u>Density Classification</u>	<u>Development Fee Amount</u>
<u>Low Density</u>	<u>2.8 x Park Development Cost Per Person</u>
<u>Medium Density</u>	<u>2.2 x Park Development Cost Per Person</u>
<u>High Density</u>	<u>1.7 x Park Development Cost Per Person</u>

19  
20 (2) For purposes of determining the development fee under Subsection  
21 (B)(1):

22 
$$\text{Park Development Cost} = \text{Park Development Cost Factor}$$

23  
24 
$$\frac{\text{Park Facilities Level-of Service}}{\text{Park Facilities Level-of Service}}$$

25 where:

26 (a) “Park Development Cost Factor” is an amount approved by the  
27 city council, concurrent with adoption of the annual fee ordinance,



1           (B) The director shall place fees paid under Section 25-1-605 (*Fee In-Lieu of*  
2           *Parkland Dedication*) and Section 25-1-606 (*Parkland Development Fee*) into  
3           separate funds and use the fees consistently with the requirements of this  
4           subsection.

5           (1) Except as provided in Subsection (B)(3), the director shall use fees paid  
6           under Section 25-1-605 (*Fee In-Lieu of Parkland Dedication*) solely to  
7           acquire parkland or recreational easements that will benefit residents of  
8           the development for which the fees are assessed and are located within a  
9           service area designated by the director under the Parkland Dedication  
10           Operating Procedures.

11           (2) The director shall use fees paid under Section 25-1-606 (*Parkland*  
12           *Development Fees*) solely to acquire and develop recreational amenities  
13           that will benefit residents of the development for which the fees are  
14           assessed and are located within a service area designated by the director  
15           under the Parkland Dedication Operating Procedures.

16           (3) The director may use fees paid under Section 25-1-605 (*Fee In-Lieu of*  
17           *Parkland Dedication*) consistent with the purposes described in  
18           Subsection (B)(2) if, within one year from the date the fees are  
19           appropriated for expenditure, the director determines that land which  
20           meets the requirements of Section 25-1-603 (*Standards for Dedicated*  
21           *Parkland*) is unavailable for purchase within the service area for which  
22           the fees were assessed.

23           (C) The City shall expend a fee collected under this article within five years from  
24           the date the fees are appropriated for expenditure by the director. This period is  
25           extended by five years if, at the end of the initial five-year period, less than 50  
26           percent of the residential units within a subdivision or site plan have been  
27           constructed.

28           (D) If the City does not expend a fee payment by the deadline required in  
29           Subsection (C), the subdivision or site plan applicant who paid the fee may  
30           request a refund under the requirements of this subsection.

31           (1) The refund request must be made in writing and filed with the Parks and  
32           Recreation Department not later than 180 days after the expiration of the  
33           deadline under Subsection (C).

34           (2) If the refund request is timely filed, the director shall:

35           (a) refund the amount of unspent fees that were collected under this  
36           article in connection with approval of a subdivision or site plan;  
37           and

1 (b) if a site plan for which fees were assessed was subsequently  
2 revised to reduce the number of units, recalculate the amount due  
3 based on the reduced number of units and refund any fees paid in  
4 excess of that amount.  
5

6 **§ 25-1-608 [25-1-606] DEDICATION OF LAND OR PAYMENT IN-LIEU AT**  
7 **BUILDING PERMIT.**

8 (A) Dedication of parkland or payment in lieu of dedication, as determined by the  
9 director [~~of the Parks and Recreation Department~~], is required as a condition to  
10 obtaining a building permit for residential development located within a  
11 subdivision that:

12 (1) at the time of approval, was deemed to be exempt from a requirement to  
13 dedicate parkland or pay a fee in-lieu of dedication based on the  
14 assumption that development within the subdivision would be limited to  
15 non-residential uses; and

16 (2) has not subsequently developed with a use for which parkland was  
17 dedicated or a fee in-lieu of dedication was paid.

18 (B) The amount of a fee in-lieu of parkland dedication under this section shall be  
19 calculated in accordance with Section 25-1-605 (*Fee In-Lieu of Parkland*  
20 *Dedication*) [~~(Payment Instead of Land)~~].  
21

22 **§ 25-1-607 - SUBMITTAL REQUIREMENTS.**

23 ~~(A) The director of the Parks and Recreation Department may request that the~~  
24 ~~subdivider or site plan applicant provide information relating to proposed~~  
25 ~~parkland to determine whether the proposed parkland complies with this article.~~

26 ~~(B) A subdivider or site plan applicant shall provide the information requested~~  
27 ~~under this section.]~~  
28

29 **§ 25-1-609 ADMINISTRATIVE AUTHORITY.**

30 (A) The director is authorized to adopt administrative rules and take other actions  
31 that are necessary to implement this article.

32 (B) The director shall, at a minimum, adopt:

33 (1) a Deficient Park Area Map illustrating shortages in parkland; and

34 (2) Parkland Dedication Operating Procedures establishing:

35 (a) boundaries for service areas required by Section 25-1-607 (*Fee*  
36 *Payment and Expenditure*) for use of a fee in-lieu of parkland  
37 dedication and parkland development fee;

