

## ARTICLE 5

### DEDICATION OR RESERVATION OF PUBLIC SITES AND OPEN SPACE

#### Sections:

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#### SECTION 5-1 DEDICATION AND RESERVATION OF PUBLIC SITES AND OPEN SPACES

**5-101.** In subdividing land or re-subdividing an existing plat, due consideration should be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, or other public recreational areas or open spaces. In its consideration of any such subdividing or resubdividing the Planning Commission shall make recommendations as to dedications and reservations. Any area so dedicated or reserved shall conform as nearly as possible to the recommendations of the Planning Commission. All areas to be reserved for, or dedicated to, public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated or acquired.

#### SECTION 5-2 DEDICATION AND RESERVATION OF PUBLIC PARK LAND

**5-201. General Requirement.** In subdividing or resubdividing land zoned and intended for residential use, the developer shall dedicate or reserve land for public park purposes, or pay a fee in lieu of dedication, or select a combination of dedication or reservation and a fee. The method chosen to meet this requirement shall be determined by the developer with consideration given to the standards set out in these regulations and the recommendation of the Planning Commission.

**5-202. Amount of Dedication.** The number of acres of land required to be dedicated or reserved shall be determined as follows, based on the density of development as permitted by the zoning of the property being subdivided. The area required to be dedicated or reserved shall be exclusive of all street rights-of-way and stormwater easements.

**Percent of Total Land Area Being Subdivided to be Dedicated or Reserved for Park Purposes:** CS Countryside – 2%; R-1 Low Density Residential – 5%; R-2 Medium Density Residential – 6%; R-3 High Density Residential – 8%.

**5-203. Location and Design Standards.** Any land dedicated or reserved shall conform with the Comprehensive Plan of the City. The location, size and configuration of the land to be dedicated or reserved shall be determined by the design of the streets, lots, and blocks of the subdivision with consideration given to the preservation of natural physical features.

All lands to be dedicated or reserved shall meet the following standards:

- a. No dedications or reservations shall be required from subdivisions comprised of less than twenty (20) acres.
- b. The land shall contain not less than two (2) contiguous acres and be a minimum of two hundred (200) feet at the narrowest dimension.
- c. The land shall have at least two hundred (200) feet of street frontage and be easily accessible to residents of adjacent subdivisions. Consideration shall be given to placing parks where they can be added to by future subdivisions.
- d. At least fifty percent (50%) of the land shall have a grade of less than four percent (4%). The balance may consist of steep slopes, streams, ditches, lakes or other natural features.
- e. Natural features such as wooded areas, streams, and other natural assets shall be preserved whenever possible.

**5-204. Payment in Lieu of Dedication or Reservation.** In the event the land to be dedicated or reserved is less than the amount of acreage required or the land does not meet the location and design standards, the payment of a fee in lieu of dedication or reservation may be required. The fee shall be based on the total number of dwelling units permitted within the subdivision times a fee schedule for each dwelling unit type. The fee schedule shall be as established by ordinance adopted by the Governing Body.

Any fees collected shall be placed in a neighborhood park account and used for improvement of neighborhood parks including acquisition of land. A record of fees paid into and expended from the fund shall be kept by the City. In the event funds have not been expended on such purposes within fifteen (15) years from the date received the fees shall be refunded in the following manner:

- a. If paid in full at the time of platting, to the developer.
- b. If paid at the time of the building permit, to the record property owner at the time of the refund.

**5-205. Credit for Private Open Space.** Private open space for park and recreational purposes within a proposed development may be credited for up to fifty percent (50%) of

the requirement for dedication or reservation of public park land or payment of a fee in lieu thereof provided that the following standards are met:

- a. That yards, setbacks and other open areas required by zoning and building regulations shall not be included in computing the area set aside as private open space.
- b. That the private open space shall be reasonably useable for park and recreation purposes.
- c. That the private open space shall be perpetually restricted for park and recreation purposes by recorded plat or restrictive covenant.
- d. That the private open space shall be permanently owned and maintained by the owner of the development or by a legally established homeowners' association.

**5-206. Indication on Preliminary Plat.** At the time of the preliminary plat submittal, the developer shall indicate whether a dedication or reservation of land or a fee in lieu of dedication is being proposed. Any land proposed to be dedicated or reserved shall be shown on the preliminary plat.

**5-207. Prerequisite for Final Plat Approval.** When land is being dedicated it shall be shown on the final plat and marked "Dedicated for Public Park Purposes." Such dedications shall not be effective until the dedication has been specifically accepted by the Governing Body.

When a fee in lieu of dedication is required, total payment shall be made prior to final plat approval by the Governing Body or, at the option of the developer, payment may be made at the time of issuance of a building permit on each individual lot. In the latter case, the fee shall be in accordance with the fee schedule referenced in section 5-204.

**5-208. Reservation of Park Land.** The Governing Body may determine that the reservation of park land for future dedication is more appropriate than immediate dedication of such land. In such cases, the land to be reserved shall be shown on the final plat and marked "Reserved for Public Park Purposes" and a covenant shall be written on the recorded plat indicating the latest date, time and manner in which dedication shall occur. Such future dedications shall be at no cost to the City except for the reimbursement of any costs paid by the owner for street, utility, drainage, and other public improvements benefiting the reserved land.

### **SECTION 5-3 ACTION BY GOVERNING BODY**

**5-301.** Upon receiving the recommendations of the Planning Commission, the Governing Body may:

- a. Accept dedication or reservation of land.
- b. Accept, in lieu of the dedication of land, a fee in accordance with a fee ordinance adopted by the Governing Body.
- c. Waive the requirement if the Governing Body finds that there are sufficient schools, parks, playgrounds or other publicly-owned or operated recreational areas or open spaces in the area of the subdivision.

#### **SECTION 5-4 USE OF LAND AND FEES**

**5-401.** Land or fees obtained pursuant to this Article shall only be used to obtain public open space, public recreational land or facilities for public use. The Governing Body shall make appropriate findings as to the relationship between the subdivision from which the fees were obtained and such open space, recreational land or facilities for public use.