

Memorandum



CITY OF DALLAS

DATE June 21, 2019

TO Honorable Mayor and Members of the City Council

SUBJECT **Park Land Dedication Ordinance**

The Park Land Dedication Ordinance takes effect on July 1, 2019, as approved by the City Council on June 27, 2018. The intent of the ordinance is to provide adequate park land and park amenities as the City grows for new residents, without burdening existing taxpayers. This ordinance is applicable to the following development types:

- Single family or duplex
- Multifamily
- College dormitory, fraternity, or sorority house
- Hotel and motel

The ordinance requires these development types to dedicate land to the City park land or pay a fee-in-lieu of dedication. The ordinance is triggered when these development types are proposing a net-increase in density on the respective lot (e.g., an increased number of units).

The ordinance is attached for your information. If you have any questions, please contact me or Kris Sweckard, Director of Sustainable Development & Construction.

A handwritten signature in blue ink, appearing to read 'Majed Al-Ghafry'.

Majed Al-Ghafry, P.E.
Assistant City Manager

[Attachment]

c: Chris Caso, City Attorney (Interim)
Mark Swann, City Auditor
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizzor Tolbert, Chief of Staff to the City Manager
Majed A. Al-Ghafry, Assistant City Manager
Jon Fortune, Assistant City Manager

Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
Michael Mendoza, Chief of Economic Development and Neighborhood Services
M. Elizabeth Reich, Chief Financial Officer
Laila Alequresh, Chief Innovation Officer
Liz Cedillo-Pereira, Chief of Equity and Inclusion
Directors and Assistant Directors

Division 51A-4.1000. Park Land Dedication.

SEC. 51A-4.1001. PURPOSE.

Dedication of park land provides new residents and visitors with recreational amenities and green infrastructure consistent with the current level of park services for existing residents. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1002. APPLICABILITY.

(a) In general. Except as provided in this section, park land dedication requirements apply to:

- (1) a single family or duplex residential plat or building permit for new construction; and
- (2) a development plan or building permit that includes multifamily residential units or a hotel or motel use.

(b) Exceptions. These regulations do not apply to:

- (1) plats, replats, or issuance of building permits for new construction on land owned by a governmental unit; and
- (2) developments in planned development districts, existing on July 1, 2019, with open space or park land requirements.

(c) Waivers. Only developments that are enrolled in a program administered by the housing and neighborhood revitalization department and authorized by the city council, that furthers the public purposes of the city's housing policy may be eligible to have some or all of these requirements waived. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1003. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this division:

- (1) COMMUNITY PARK means a park that is larger than a neighborhood park and serves several neighborhoods.
- (2) DIRECTOR means the director of the park and recreation department.
- (3) HOTEL AND MOTEL USE means a hotel or motel use, extended stay hotel or motel use, lodging or boarding house use, or residential hotel.
- (4) MULTIFAMILY USE means a college dormitory, fraternity, or sorority house, group residential facility, multifamily use, or retirement housing.
- (5) NEIGHBORHOOD PARK means a park that serves a variety of age groups within a limited area or neighborhood.
- (6) PARK DEDICATION ZONE means an area as illustrated on the park land dedication map created by the park and recreation department defining the area where dedication may occur.
- (7) PRIVATE PARK LAND means privately owned park land, common area, or green spaces provided on-site that is accessible to the residents of a development.
- (8) SINGLE FAMILY OR DUPLEX USE means a duplex use, handicapped group dwelling unit, or single family use.

(b) Interpretations. For uses or terms found in Chapter 51 the regulations in Section 51A-4.702 (a)(6)(C) apply in this division. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1004. DEDICATION.

(a) General. Dedication may be accomplished by dedication to and acceptance of suitable land by the city or by payment of a fee-in-lieu of dedication.

(b) On-site dedication. For single family or duplex residential subdivisions, on-site dedication must be shown on the preliminary and final plat. For multifamily or hotel and motel uses, on-site dedication must be shown on the development plan or other plan submitted

with a building permit application.

- (c) Off-site dedication. Off-site dedication must be evidenced by a deed to the city that has been accepted by the director.
- (d) Deferral. Payment of the fee-in-lieu may be deferred from the time of platting to the time of issuance of building permits.
- (e) Dedication calculation. The following formula applies to determine the amount of land required to be dedicated.

- (1) For a single family or duplex residential development:

One acre per 100 dwelling units. Less than 100 dwelling units on a pro rata basis.

- (2) For a multi-family development:

One acre per 255 single bedroom dwelling units. Less than 255 dwelling units on a pro rata basis.

One acre per 127 two bedroom or greater dwelling units. Less than 127 dwelling units on a pro rata basis.

For a college dormitory, fraternity, or sorority house, one acre for 255 sleeping rooms. Less than 255 sleeping rooms on a pro rata basis.

- (3) For a hotel or motel use development:

One acre per 233 guest rooms. Less than 233 guest rooms on a pro rata basis.

(f) Single family and duplex development. For single family or duplex developments, park land dedication may occur at either the subdivision or permitting phase. Dedication is only required once.

- (1) Residential subdivision.

(A) Unless dedication has been deferred to the permitting phase, final approval of a single family or duplex residential subdivision plat requires at least one of the following to satisfy the requirements of Subsection (e) of this section including any credits or off-sets authorized pursuant to Section 51A-4.1007

(i) For park land dedicated within the subdivision, a fee simple dedication on the subdivision plat of the required park land approved by the director.

(ii) For park land dedicated outside the subdivision, evidence of recording in the appropriate real property records of a general warranty deed of the required park land approved and accepted by the director.

(iii) For land platted as a private park, the land must be identified on the plat.

(iv) Confirmation of deposit into the park land dedication fund of the fee-in-lieu of dedication in the amount established pursuant to Section 51A-4.1005.

(B) Land established as a private park for the purposes of this section may not be replatted to change the designation without the approval of the city plan commission. The city plan commission shall not approve a replat that would change the designation unless it determines that:

(i) alternative private park land that satisfies the requirements of this subsection is identified within the original subdivision that meets the dedication requirement; or

(ii) park land dedication requirements are met with an off-site dedication or fee-in-lieu meeting the requirements of this division.

(C) For phased plats, park land dedication plats may only be accepted for the active phase.

(2) Residential building permit. Issuance of a building permit for a single family or duplex development requires at least one of the following to satisfy the requirements of Subsection (e) of this section including any credits or off-sets authorized pursuant to Section 51A-4.1007 :

(A) For dedicated park land, evidence of recording in the appropriate real property records of a general warranty deed for the required park land approved and accepted by the director; or

(B) Confirmation of deposit into the park land dedication fund of the fee-in-lieu of dedication in the amount established pursuant to Section 51A-4.1005.

(C) For private park land and publicly accessible private park land, the final plat must be filed or an instrument acceptable to the city attorney must be filed in deed records.

(g) Multifamily and hotel or motel use developments. Issuance of a building permit for a multifamily or hotel or motel use development requires at least one of the following to satisfy the requirements of Subsection (e) of this section including any credits or off-sets authorized pursuant to Section 51A-4.1007 :

- (1) For dedicated park land, evidence of recording in the appropriate real property records of a general warranty deed for the required park land approved and accepted by the director;
- (2) Identification of the required amount of private park on the preliminary and final plats or development plan if applicable; or
- (3) Confirmation of deposit into the park land dedication fund of the fee-in-lieu of dedication in the amount established pursuant to Section 51A-4.1005.

(h) Minimum size. If the calculation in Subsection (e) of this section results in less than one acre, the director may require the developer to pay the fee-in-lieu of land dedication as provided in Section 51A-4.1005 . The director may approve the dedication of less than one acre of property if the proposed park meets or addresses a need in the park system or presents an opportunity to enhance the city parks system as recommended by the comprehensive plan. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1005. FEE-IN-LIEU.

(a) The owner of property for which dedication is required may pay a fee-in-lieu of dedication in the amount determined in Subsection (c) of this section, and the director shall not refuse any payment of a fee- in-lieu of dedication.

(1) In some instances, the director may require the developer to pay fees-in-lieu of dedicating land. In making this determination, the director shall consider the following factors:

(A) Whether sufficient park land and open space exists in the area of the proposed development; and

(B) Whether recreation potential for an area would be better served by expanding or improving existing parks, by adding land or additional recreational amenities.

(2) The director shall notify the developer in writing of the director's decision to require a fee-in- lieu of dedication and the reason for the decision. The developer may appeal the decision to the park and recreation board by filing a written notice with the director within 15 days after the date of the decision.

(b) Payment of the fee-in-lieu is required at the time of approval of the final plat or issuance of building permits. Cash payments may be used only for acquisition or improvement of park land and facilities located within the same park dedication zone as the development. Fees may be applied to any type of park site or improvement within the park dedication zone in accordance with park and recreation department prioritization.

(c) For developments in more than one park dedication zone, or that abut another park dedication zone, fees-in-lieu may be spent in either park dedication zone.

(d) For Park Dedication Zone Seven (the Downtown/Uptown Zone) as shown on the parkland dedication zone map, fees-in-lieu may be used to increase connectivity in the city's trail system for the recreational benefit of the residents of that area. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1006. PARK DEVELOPMENT FEE.

(a) In general. To provide recreational amenities on existing park land for new residents and visitors, a park development fee is required to be paid at the time of dedication or payment of fee-in-lieu. Except as provided in this section, park development fees must be applied to parks within the park dedication zone in accordance with park and recreation department prioritization.

(1) Credit may be provided on a dollar for dollar basis for capital improvements on adjacent park land if the capital improvements:

- (A) meet minimum park and recreation standards;
- (B) are needed and are appropriate for the park land; and
- (C) are accepted by the director.

(2) Credit may be provided on a dollar for dollar basis for capital improvements on publicly accessible private park land if the capital improvements:

- (A) meet minimum park and recreation standards;
- (B) are needed and are appropriate for the park land; and
- (C) are accepted by the director.

(3) A maximum credit of 50 percent of the total requirement may be provided for capital improvements on non-publicly accessible private park land if the capital improvements:

- (A) meet minimum park and recreation standards;
- (B) are needed and are appropriate for the park land; and
- (C) are accepted by the director.

(b) Location. For developments in more than one park dedication zone, or that abut another park dedication zone, park development fees may be spent in either park dedication zone.

(c) Timing. Park development fees must be paid at the time all other dedications or payments are made. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1007. CALCULATIONS, DEDUCTIONS, AND CREDITS.

(a) Initial calculations. The director shall determine the amount of land required to be dedicated, or fees-in-lieu of dedication to be paid, in accordance with Sections 51A-1.105 (z), 51A-4.1004 , 51A-4.1005 , and this section.

(1) The director shall first calculate the amount of park dedication required in Section 51A-4.1004;

(2) If the owner of the subdivision or development elects to pay a fee-in-lieu of dedication, or the director requires the payment of a fee-in-lieu of dedication, the director shall calculate the fee according Section 51A-4.105(z);

(3) If the owner of the subdivision or development chooses to satisfy the requirements of this division by a combination of dedication of land and payment of a fee-in-lieu of dedication, the director shall:

(A) First, calculate the total park dedication requirement;

(B) Second, subtract from the total park land dedication requirement the amount of park land to be dedicated;

(C) Third, calculate amount of fee-in-lieu for the remaining amount of park land dedication required by multiplying the remaining land area by the fee-in-lieu per square foot cost factor.

(b) Deductions and credits.

(1) The number of dwelling units, guest rooms, or sleeping rooms requiring dedication is based on a total increase in dwelling units, guest rooms, or sleeping rooms. The director shall deduct from the initial calculation the number of dwelling units, guest rooms, or sleeping rooms in existence within five years of the approval of the preliminary plat or the issuance of the first building permit for the proposed new development. The burden is on the applicant to demonstrate to the satisfaction of the director that the dwelling units, guest rooms, or sleeping rooms existed before the application for the subdivision plat or building permits generating the dedication requirement;

(2) The director shall reduce the dedication requirement of Section 51A-4.1004 or the fee-in-lieu of dedication requirement of Section 51A-4.1005, as applicable, by one or more of the following credits:

(A) The director shall grant a maximum credit of 100 percent of the total dedication requirement for publicly accessible private park land provided within the subdivision or development generating the dedication requirement that meets the requirements of this paragraph.

(i) To be eligible for credit, publicly accessible private park land must be:

(aa) made accessible to the public on an instrument approved by the city attorney;

(bb) of a size approved by the director to appropriately meet the needs of the development;

(cc) provide landscaping and recreational amenities approved by the director; and

(dd) be open to the public during all times it is accessible to the residents of the development.

(ii) Equipment in a private park must comply with city standards applicable to the type of equipment.

(iii) A publicly accessible private park land instrument must:

(aa) contain a legal description of the development and the publicly accessible private park land;

(bb) be signed by all owners and lienholders of the development property and is binding on lienholders by a subordination

clause;

(cc) be approved by the director;

(dd) be approved as to form by the city attorney;

(ee) create a covenant running with the land;

(ff) provide that the owners of the property development are responsible for all general park maintenance at a level consistent with minimum park and recreation standards;

(gg) provide necessary easements for access to the publicly accessible private park land;

(hh) give the city the right, but not the obligation, to take any action needed to make necessary repairs or improvements within the publicly accessible private park land, and to place a lien on all lots within the development until the city has received full compensation for that action;

(ii) provide that the owners of property in the development agree to defend and indemnify the city, and to hold the city harmless from and against all claims or liabilities arising out of or in connection with publicly accessible private park land or publicly accessible private park land instrument;

(jj) provide that it is governed by the laws of the State of Texas; and

(kk) provide that it may only be amended or terminated:

(I) with the consent of all the owners and lienholders of property in the development;

(II) upon the dedication of any park land or payment of a fee-in-lieu necessary to meet the requirements of this section;

and

(III) after approval as to form by the city attorney, and approval by the director.

(B) A maximum credit of 50 percent of the total requirement will be given for non-publicly accessible private park land provided within the subdivision or development generating the dedication requirement that meets the requirement of this subparagraph. Private park land eligible for credit must:

(i) be of a size approved by the director to appropriately meet the needs of the development;

(ii) be maintained at a level consistent with minimum park and recreation maintenance standards;

(iii) provide landscaping and recreational amenities approved by the director;

(iv) have equipment that complies with city standards applicable to the type of equipment; and

(v) not be an interior common area.

(C) Developments located within a community unit development with open space meeting the requirements of Subparagraph (A) or Subparagraph (B) may receive credit for park land dedication as provided in this section.

(3) Credits are cumulative, up to a maximum of 100 percent of the required dedication and are only applicable to the original property being developed. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1008. PARK LAND DEDICATION STANDARDS.

(a) Park land location standards. It is the purpose of this section to ensure that parks are easy to access, can be linked with nearby park and recreational facilities, and are generally open to public view or accessible by easement to benefit area development, enhance the visual character of the city, protect public safety, and minimize conflict with adjacent land uses. Land proposed to be dedicated for parks must meet the following location standards:

(1) Where physically feasible, parks should be bound by streets or by other public uses (e.g., school, library, recreation center) to facilitate access and possible joint use.

(2) Where residential lots directly abut a park, consideration should be given to future owners' access to the facility and protection from future park uses, such as lighting and noise.

(3) Dedicated park land must be in a location that is accessible by the public.

(4) The director may accept dedication of property within the park dedication zone that provides for access to parks other than community and neighborhood parks.

(5) The land must comply with current park standards.

(b) Park land acceptance standards.

(1) The city may accept or reject an offer of dedication, after consideration of the recommendation of the director, and require the payment of fees in lieu of dedication as provided in Section 51A-4.1005.

(2) Land dedicated for park and recreational areas must be of such size, dimensions, topography and general character as is reasonably required by the city for the type of use necessary to meet the current park system requirements.

(3) Land proposed to be dedicated for parks must generally meet the following requirements. The director may recommend the acceptance of the dedication of property that does not meet these criteria if the property is adjacent to an existing park or other public space, provides access to a park, or otherwise presents an opportunity to enhance the city parks system consistent with the park and recreation department's comprehensive plan update.

(A) Minimum size and configuration standards.

(i) Unless determined otherwise by the director pursuant to Subsection 51A-4.1004(h), the minimum size of land dedicated for a park is one acre.

(ii) Land dedicated for a park must be a contiguous piece of property that can physically accommodate improvements associated with a neighborhood or community park.

(B) Location and access standards.

(i) The land must meet the applicable location requirements of Paragraph (4).

(ii) The land must have connectivity to a public street appropriate for the size and use of the park.

(C) Physical characteristics standards.

(i) Unless otherwise approved by the director, land must be vacant and cleared of nonvegetative material.

(ii) The land must be in full compliance with all ordinances, rules, and regulations of the city.

(iii) Except when approved by the director, the land must not have severe slopes or unusual topography that would not allow the park to be used for its intended purpose without recontouring the property.

(D) Minimum environmental conditions standards. Unless provided otherwise in rules promulgated by the director, the land must be reasonably free of recognized environmental conditions.

(i) If land is proposed to be dedicated by plat, before submittal of a final plat, the applicant shall submit either a phase I environmental assessment that shows no environmental conditions exist on the property or a phase II environmental assessment that shows no remediation is required.

(ii) If land is proposed to be dedicated by separate instrument, before acceptance the applicant shall submit either a phase I environmental assessment that shows no environmental conditions exist on the property or a phase II environmental assessment that shows no remediation is required.

(4) Land in a federally designated floodplain or floodway may be dedicated as park land if the land otherwise meets the acceptance standards for park land in this section and all other ordinances, rules, and regulations of the city. Floodplain and floodway areas may only be used to meet a maximum of 50 percent of the dedication requirements. Stormwater detention/ retention areas and associated access easements do not meet the standards for acceptance of park land.

(5) For developments in more than one park dedication zone, property may be dedicated in either park dedication zone. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1009. PARK LAND DEDICATION FUND.

(a) In general.

(1) There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this section. The fund will be known as the "Park Land Dedication Fund." Except as provided in this section and Section 51A-4.1005, funds will only be released from the Park Land Dedication Fund to buy, build, or enhance a park within the park dedication zone, from which the funds originated.

(2) Fees paid into the park land dedication fund must be spent by the city within 10 years after the payment of the required fees. If the funds cannot be spent within the 10 year period, the owners of the property on the last day of the 10 year period will be entitled to a refund of the unexpended sum upon request. The owners of the property, as shown on the current tax roll or proven by other instrument, must request a refund within one year of the expiration of the 10 year period. The request must be made in writing to the director.

(3) Where funds have been paid or a dedication for a phased development has been made in accordance with this section, and the original developer does not complete all phases of the entire development, credit for any prior dedication or payment will be applied to subsequent replats or development plans for the same land on a pro-rata basis by dwelling unit for a period of 10 years. Increased density requires the dedication of additional park land or payment of additional fees.

(b) Expenditures. The park land dedication fund must be used for the acquisition and improvement of parks and may not be used for park maintenance or city staff overhead expenses. Indirect costs reasonably incurred in connection with park acquisition and improvement, such as appraisal fees, environmental assessment costs, legal expenses, and engineering and design costs, are limited to a maximum of 10 percent of total acquisition or improvement costs. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1010. TREE MITIGATION.

(a) In general. Trees on dedicated park land may be used to meet tree mitigation requirements in accordance with Article X.

(b) Tree mitigation credits. To be eligible for Article X tree mitigation credits, dedicated park land and private park land must meet the conservation easement standards in Sections 51A-10.135 (f)(1), 51A-10.135 (f)(3), and 51A-10.135 (f)(5).

(c) Conservation easements. Park land dedication requirements may be met on an acre for acre basis for any land dedicated as a conservation easement under Article X that meets the conservation easement standards in Article X and the requirements for publicly accessible private park land in Section 51A-4.1007 (b)(2)(A)(i) and is accepted by the director. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1011. APPEALS.

Except for appeals of apportionment of exactions, all appeals of the director's decisions are appealable to the park and recreation board following the same procedure as an appeal of an administrative official's decision to the board of adjustment. Notice of appeal must be made within 15 days of the date of that decision. (Ord. [30934](#), eff. 7/1/19)

SEC. 51A-4.1012. REVIEW.

The director shall review this ordinance every five years from the effective date. (Ord. [30934](#), eff. 7/1/19)