

PART II - CODE OF ORDINANCES

Chapter 22 - SUBDIVISIONS

ARTICLE III. - DEDICATION OF PARKS, OPEN SPACES, TRAILS AND PUBLIC SITES

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Sec. 22-61. - Purpose.

- (a) The city and the surrounding community continues to grow while the amount of parkland, open space and trails for active and passive recreational opportunities remains almost unchanged. The city's growth includes geographic expansion through (orderly) annexation and increases in population, employment, new dwellings, and square footage of floor space for business uses, all of which directly or indirectly use and place burdens upon the city's park and trail system.
- (b) In our modern day society and culture, people continue not only to seek recreational opportunities but to demand that adequate park, open space and trail resources be an integral component incorporated into the fabric of their community, be it their neighborhood or the workplace. This article is enacted to equitably meet park, open space and trail needs of the community as land is developed, and to fulfill the needs, plans and policy of the city and its people as expressed in the city's comprehensive plan, as well as the city's parks, open space and trail system plan. Meeting those park, open space and trail needs protects the health, safety and welfare of city residents and is in the best interests of the community.

(Ord. No. 394, 2nd series, § 11.05, subd. 1, 3-7-2005)

Sec. 22-62. - Findings.

The city council finds that:

- (1) Minn. Stat. § 462.358 enable cities to require dedication of parks, open spaces and trails as part of the platting and subdivision process.

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- (2) Pursuant to that enabling authority, for several decades cities have enacted parkland dedication ordinances such that it is common practice in most communities around the state to require the dedication of park, open space and trail lands as part of the platting and subdivision process.
- (3) Requiring dedication of lands for park, open space and trail needs, based on the use and density of development, will help ensure adequate park, open space and trail facilities at suitable locations throughout the community.
- (4) There is a nexus or close relationship between the need for more parkland, open space and trails and the conversion of unplatted land, often rural land, to urban development. As a general rule, a core system of parkland requires a minimum of 6.25 to as much as 20 acres per 1,000 population. Furthermore, many communities have found it reasonable to require an amount of lands equal to ten percent of the land proposed to be subdivided for parks, open space, trails and other recreational purposes, exclusive of public streets, alleys, drainage, easements and pedestrian ways.
- (5) The city has enlisted the analysis and preparation of a Nexus Report by Thibault Associates, which final report demonstrates the need and basis for dedication as the city grows and new development and subdivision occurs as a result of that growth.
- (6) To protect the public health, safety and general welfare and to ensure that new subdivisions continue to achieve orderly, stable and wholesome community environments, suitable land must be dedicated in plats for park, open space and trail use just as suitable lands are designated and dedicated for street and utility uses.
- (7) Requiring park and trail dedication is consistent with the city's adopted comprehensive plan, particularly the public facilities/parks plan and the policy which has recommended that the city require dedication of parkland or cash in lieu of land in conjunction with subdivision of all property.
- (8) Requiring dedication for parks, open space and trails is also consistent with and in furtherance of the city's parks, open space and trail system plan, as well as the city's local sales tax legislative initiative passed by a majority of voters in the 2002 general election.
- (9) Accordingly, the city council finds it in the best interest of the city and to protect the public health, welfare and safety by ensuring adequate parks, trails and open space through dedication of land, or case in lieu of land, in conjunction with the subdivision of property within the city.

(Ord. No. 394, 2nd series, § 11.05, subd. 2, 3-7-2005)

Sec. 22-63. - Land dedication required.

As allowed by Minn. Stat., § 462.358, subd. 2B, the city shall require all subdividers of property to dedicate a reasonable portion of the land being platted or subdivided to the city for public use, park, playground, trails, public sites, open space, conservation purposes, and stormwater holding areas and ponds.

(Ord. No. 394, 2nd series, § 11.05, subd. 3, 3-7-2005)

Sec. 22-64. - Adaptability; suitability of dedication.

Land to be dedicated shall be in a location and of a character consistent with and reasonably adaptable for the above public purposes. Factors the city will use in evaluating the adequacy of proposed dedications shall include size, shape, topography, tree cover, drainage, geology, access and location.

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Lands not reasonably adaptable (wetlands, lands within floodplains or already protected lands) may be dedicated but such dedication shall not count or be credited toward meeting the minimum park land dedication requirements of this [section 22-65](#).

(Ord. No. 394, 2nd series, § 11.05, subd. 4, 3-7-2005)

Sec. 22-65. - Minimum areas of dedication.

- (a) *Residential.* A minimum of at least the rate of one acre per 25 dwelling units within the subdivision.
- (b) *Nonresidential.* A minimum of at least four percent of the gross area, excluding wetlands, shall be dedicated.
- (c) *Mixed residential and nonresidential.* For that portion in nonresidential uses, a minimum of at least four percent of the gross area, excluding wetlands, shall be dedicated. For that portion in residential use, a minimum of at least the rate of one acre per 25 residential units in the subdivision shall be dedicated.

(Ord. No. 394, 2nd series, § 11.05, subd. 5, 3-7-2005)

Sec. 22-66. - Trails and sidewalks.

Trails shall be included in the plat and dedicated to provide a suitable circulation system within the plat and with links to the city's system consistent with the city's comprehensive plan, city parks, open spaces and trails plan and any similar plan of the city. At the discretion of the city council, trails dedicated by the subdivider within a public park having at least 30 feet of width throughout its length, may be eligible for park dedication under provisions of this article.

(Ord. No. 394, 2nd series, § 11.05, subd. 6, 3-7-2005)

Sec. 22-67. - Dedicated land not counted to meet density or open space.

Land conveyed or dedicated for the above public purposes and/or its equivalent as a cash contribution may not be used by a subdivider or owner as an allowance for purposes of calculating the density requirements of the development as set out in the zoning chapter and shall be in addition to and not in lieu of open space requirements for planned unit developments, open space easements for roads, utilities, drainage, conservation, and open space.

(Ord. No. 394, 2nd series, § 11.05, subd. 7, 3-7-2005)

Sec. 22-68. - Private open space.

If private open space for park and recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, at the discretion of the city council, such area may be used for credit toward the park dedication requirement provided the city council finds it is in the public interest to do so and that the following standards are met:

- (1) That where such credit is granted, the amount of credit shall not exceed 20 percent of the amount of land dedication required to be dedicated by this article;
- (2) That yards, court areas, setbacks and other open space required to be maintained by the zoning chapter shall not be included in the computation of such private open space;

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- (3) That the private ownership and maintenance of the open space is adequately provided for by written agreement;
- (4) That the private open space is restricted for park and recreation purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the city council;
- (5) That the proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, drainage, access, and location of the private open space land; and
- (6) That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive land use plan, and are approved by the city council.

(Ord. No. 394, 2nd series, § 11.05, subd. 8, 3-7-2005)

Sec. 22-69. - Contribution of equivalent market value.

The subdivider is required to dedicate land or the equivalent market value of suitable land in cash to meet the land dedication requirement. When in the opinion of the council, the subdivision is too small for practical dedication of public land, or if no land in the subdivision is suitable for such use, or if, in the opinion of the council, there is no need for publicly dedicated recreation land, school sites or public use, within the subdivision, the city may accept the equivalent market value in cash of suitable land from the subdivider in lieu of land dedication. Equivalent market value of suitable land shall be calculated using an average fair market value for one acre of land having the same zoning classification(s) and development potential as the property being developed, and having a character consistent with and reasonably adaptable for park, open space and trail purposes. Fees based on equivalent fair market values for residential and non-residential (commercial/industrial) properties shall be determined by the city council and reviewed annually and, if necessary, recalculated based upon current land sales comparisons. The fees determined by the city council shall be set forth in the city's fee schedule ordinance. The city council may consider and allow a combination of land dedication and a cash contribution in lieu of land dedications.

(Ord. No. 394, 2nd series, § 11.05, subd. 9, 3-7-2005; Ord. No. 8, 3rd series, § 1, 12-4-2006)

Sec. 22-70. - Dedication requirements presumptively appropriate.

The dedication requirements based on the development's proportional share of the city park system are presumptively appropriate. A subdivider may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. That request must be made to the city council as part of an application before final plat approval.

(Ord. No. 394, 2nd series, § 11.05, subd. 10, 3-7-2005)

Sec. 22-71. - Previously platted property.

Property being subdivided without an increase in the number of lots shall be exempt from park and trail dedication requirements if similar requirements were satisfied in conjunction within an earlier subdivision. If the number of lots is increased, then the dedication shall be based on additional lots created.

(Ord. No. 394, 2nd series, § 11.05, subd. 11, 3-7-2005)

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Sec. 22-72. - Outlots.

In plats that include outlots for future development, the subdivider may pay to the city:

- (1) The developments proportional share for the entire subdivision, including the outlots; or
- (2) The developments proportional share, excluding such outlots, provided that the dedication requirement shall be satisfied when such outlots are developed or replatted.

(Ord. No. 394, 2nd series, § 11.05, subd. 12, 3-7-2005)

Sec. 22-73. - Administration and accounting.

The city council shall establish administrative procedures deemed necessary or required to implement land dedication requirements. The city council shall establish a separate fund into which shall be placed all cash contributions received from subdividers in lieu of conveyance or dedication of land.

(Ord. No. 394, 2nd series, § 11.05, subd. 13, 3-7-2005)