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Chapter 54

**RECREATION AND OPEN SPACE LAND DEDICATION**

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**ARTICLE I. IN GENERAL**

**Sec. 54.01. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Expansion* means the addition of eight or more dwelling units to a residential property. For the purposes of this chapter, the term also includes the addition of 50 percent or more to the floor area of a nonresidential building located on one acre or more of land.

*Land value* means, for undeveloped properties, either the most recent sales price or the just value for the land without any agricultural exemption according to the current year's property assessment records of the county property appraiser, whichever is greater. For developed properties, the term means the just value for the land without any agricultural exemption according to the current year's property assessment records of the county property appraiser.

*Open space land* means city-owned property established and maintained primarily to provide vegetated breaks or vistas in the urban development pattern. The term includes property acquired by the city with open space funds for use as open space land. Such properties may be maintained in an essentially natural landform or be given a landscape treatment with the planting of trees, shrubs and grass, as well as other appurtenant improvements such as, but not necessarily limited to, sidewalks, benches and park lights. Open space land may adjoin recreation facilities land in the same park.

*Recreation facilities* means buildings, equipment and landscape features necessary to provide for recreation activities, including but not limited to playgrounds, picnic benches, baseball and softball diamonds, gymnasias, soccer fields, recreation centers, swimming pools, and courts for basketball, horseshoes, lawn bowling, shuffleboard and tennis, as well as parking, restrooms and other appurtenant improvements.

*Recreation facilities land* means city-owned property upon which recreation facilities are lo-

cated. The term includes property acquired by the city with recreation facilities land funds for the development of recreation facilities. Recreation facilities land may adjoin open space land in the same park.

*Redevelopment* means demolition or partial demolition of buildings or structures and replacement with new buildings or structures.

*Residential development* includes all single-family, mobile home, duplex, triplex and multiple-family dwellings, hotels/motels and interval ownership/timesharing units. The term does not include nursing homes, adult congregate living facilities, assisted living facilities, halfway houses, group homes, or residential shelters. The dwelling unit equivalent of a hotel/motel or interval ownership/timesharing unit shall be calculated as follows:

- (1) Four hotel/motel rooms equal one dwelling unit equivalent;
- (2) One interval ownership/timeshare unit equals one dwelling unit equivalent.

*Resource-based recreation area* means open space land of citywide significance, as determined by the city commission. The term includes, but is not necessarily limited to, bodies of water, wetlands, forests and scenic views. Resource-based recreation area land may be left in its natural state or improved with grass and landscaping, sidewalks, pedestrian trails, boardwalks, fishing piers and docks, canoe trails, bicycle trails, benches, park lights and other improvements appurtenant to the primary use of enjoyment of the land's natural resources by the public. The land may not be improved with parking lots, concession stands, restaurants or other similar improvements. (Ord. No. 5127, § 1, 10-17-91; Ord. No. 6763-01, § 1, 4-19-01)

**Sec. 54.02. Transition rules.**

For applications pending on the effective date of this ordinance, any fee not previously paid shall be due on July 23, 2001. (Ord. No. 6763-01, § 2, 4-19-01)

**ARTICLE II. RECREATION LAND AND FACILITIES**

**Sec. 54.21. Purpose of article.**

The purpose of this article is to enable the city commission to implement the objectives and policies of the recreation and open space element of the city comprehensive plan.  
(Code 1980, § 116.40; Ord. No. 5127, § 1, 10-17-91)

**Sec. 54.22. Applicability of article; exemptions from article.**

(1) It is the intent that the provisions of this article be applied to residential development proposed to be added to the building stock within the corporate limits of the city, whether the result of new construction within the corporate limits or annexation of developed property, according to the following:

- (a) All new residential development of eight dwelling units or more shall comply with all applicable provisions of this article.
- (b) All annexations of residential dwellings of eight dwelling units or more shall comply with all applicable provisions of this article.
- (c) All expansion of existing residential development which will add eight or more dwelling units shall comply with all applicable provisions of this article.
- (d) All residential redevelopment which will result in a net increase of eight or more dwelling units shall comply with all applicable provisions of this article.

(2) The following levels of development shall be considered exempt from the recreation land impact fee provisions of section 54.23(1)(a). Unless otherwise indicated, the following levels of development shall be subject to the recreation facilities impact fee as required by section 54.23(1)(b):

- (a) All new residential developments of fewer than eight units;
- (b) All annexation of residential developments of fewer than eight units shall be

considered to be exempt from the recreation facilities impact fee as required by section 54.23 (1)(b);

- (c) All expansion of existing residential development of fewer than eight units;
- (d) All residential redevelopment which results in a net increase of fewer than eight dwelling units.

(3) Exceptions to subsections (1) and (2) of this section are hereby granted pursuant to the following conditions:

- (a) Any parcel which has previously met the city's land dedication requirements under the previously established terms of annexation shall not be subject to an additional dedication requirement, provided development intensity does not exceed the level established by zoning or specifically authorized by site plan or subdivision plat approval at the time of land dedication or payment in lieu thereof. Should the applicant seek to increase the intensity of use, the city reserves the right to impose an additional fee, the amount of which is the difference between the previous dedication and the dedication amount which is determined according to the provisions of this article for the portion of the project which is proposed to be expanded.
- (b) Any property which was the subject of an agreement to annex executed prior to the effective date of this article is exempt from the provisions of this article.
- (c) Any preexisting agreements to provide open space, park or recreation land established through site plan, subdivision plat or annexation procedures shall be honored by both the city and the affected private party.
- (d) Development, redevelopment or expansion of properties located within the downtown redevelopment area, designated as the Community Redevelopment Area in Resolution 02-41, approved by the city

commission on August 8, 2002, shall be exempt from the provisions of this article. (Code 1980, § 116.42; Ord. No. 5518-94, § 1, 2-17-94; Ord. No. 6763-01, § 3, 4-19-01; Ord. No. 7957-08, § 1, 6-19-08)

**Sec. 54.23. Fees—Determination of amount.**

(1) The amount of recreation land and development impact fees shall be based, to the extent possible, upon the intensity of the proposed development and the findings contained in the open space and recreation study prepared by the city, which provides the inventory information and methodology used to develop the following fee schedule:

- (a) To provide land on which recreation facilities may be built to service additional population consistent with the level of service prevailing in the city, all applicable residential developments shall be assessed a recreation land impact fee as set forth in appendix A to this Code.
- (b) To provide capital facilities to service additional population consistent with the level of service prevailing in the city, all applicable residential developments shall be assessed a recreation facilities impact fee as set out in appendix A to this Code.

(2) When the dedication requirements set forth in subsection (1)(a) of this section would require the dedication of more than six percent of the net residential area of any parcel or plat, the applicant shall receive a credit if private recreation facilities are provided for the use of residents of the proposed development. Such private recreation facilities shall include but not be limited to swimming pools, tennis courts, handball courts, racquetball courts, volleyball courts, playgrounds, picnic areas, fitness trails and the like. The amount of such credit shall be the difference between the recreation land impact fee computed according to the provisions of subsection (1)(a) of this section and six percent of the net residential area of the parcel or plat.

(3) The city manager or the manager's designee, with the advice and recommendation of the parks and recreation director, shall determine whether the recreation land impact fee shall be

satisfied by a land dedication, money payment, or a combination thereof. In making this determination, the city manager and parks and recreation director shall use as a basis the following criteria:

- (a) Suitability of land for recreation usage;
- (b) Amount of land to be dedicated;
- (c) Presence or absence and location of other recreation resources in the area;
- (d) Planned recreation needs, as documented in the comprehensive plan;
- (e) Ability to maintain recreation lands in a cost effective manner.

(Code 1980, § 116.43; Ord. No. 5541-94, § 1, 3-3-94; Ord. No. 5836-95, § 10, 6-1-95; Ord. No. 6763-01, § 4, 4-19-01)

**Sec. 54.24. Same—Method and timing of payment.**

(1) The transfer of land in satisfaction of the provisions of section 54.23 shall be in fee simple, permanent recreation easement, or any other equivalent conveyance which would have the effect of providing the benefits of recreation land in perpetuity to the residents and visitors of the city to the satisfaction of the city attorney.

(2) Payment of moneys in satisfaction of the provisions of section 54.23 shall be made by certified check, cashier's check or other form acceptable to the city attorney.

(3) Conveyance of any deed, easement or other transfer of interest and any monetary payment for recreation facilities and in lieu of land dedication shall be in a form acceptable to the city attorney and according to the following schedule:

- (a) *Annexation*: Prior to second reading of the ordinance effectuating annexation. If the property is vacant or developed with less than eight units and is proposed to be developed or redeveloped with eight or more units, the fee shall be due in conjunction with the subdivision plat or site plan.
- (b) *Subdivision plat*: Prior to city approval and signature of the final or record plat.

- (c) *Site plan:* Prior to the issuance of the initial building permit for any residential dwelling on the property. If the development order authorizes phased development and clearly delineated phase lines are displayed on the approved plan, then any conveyance shall occur prior to the issuance of the initial building permit for the first phase and any monetary payment corresponding to a phase shall be due prior to issuance of the initial building permit for such phase.

(4) The city may, as a service to developers, estimate fees at any time prior to final development approval. The actual fee, however, shall be determined at the time the fee is due according to the schedule set forth in paragraph (3) above. (Code 1980, § 116.44; Ord. No. 6763-01, § 5, 4-19-01)

**Sec. 54.25. Use of moneys and land.**

(1) Nonrevocable trust funds shall be established to serve as depositories for moneys received as recreation land impact fees and recreation facilities impact fees. Programming of fund expenditures shall be included in the annual capital budget of the city, or as may otherwise be approved by the city commission following a public hearing. Expenditures of such funds shall be made in a timely manner. Funds shall be expended to benefit the areas in which they were collected. The standard for expenditure of funds shall be as set forth in policies 24.2.2.2 and 24.2.2.3 of the comprehensive plan of the city, which state:

- (a) Recreation facilities land funds shall be expended within a two-mile radius when used for the acquisition of community park land, within a one-mile radius when used for the acquisition of neighborhood or mini-park parkland, or at any location in the city when used for the acquisition of park land to be used for the development of a special facility site when the site is based on a recreational facility that is deemed to provide citywide service.
- (b) Recreation facilities funds shall be expended within a two-mile radius when

used for facilities placed in a community park, within a one-mile radius when used for facilities placed in a neighborhood or mini-park, or at any location in the city when used for a facility which serves as the basis for the development of a special facility site providing citywide service.

Where practical difficulties such as extent or nature of surrounding development, soil or water conditions, or political boundaries preclude meeting precisely these standards, the city reserves the right to substitute nearby facilities in a manner consistent with the service delivery program outlined in the parks and recreation element of the comprehensive plan.

- (2) Lands and interests acquired pursuant to the provisions of this article shall be dedicated for public recreation purposes and shall be managed in a manner consistent with the objectives and intent of this article.

(Code 1980, § 116.45; Ord. No. 5127, § 1, 10-17-91)

**ARTICLE III. OPEN SPACE LAND**

**Sec. 54.51. Purpose of article.**

The purpose of this article is to enable the city commission to implement the objectives and policies of the recreation and open space element of the city comprehensive plan.

(Code 1980, § 116.46; Ord. No. 5127, § 1, 10-17-91)

**Sec. 54.52. Applicability of article; exemptions from article.**

(1) The provisions of this article shall apply to the addition to the building stock within the corporate limits of the city, whether as a result of new construction within the corporate limits or new construction subsequent to filing a petition for annexation, as follows:

- (a) All new residential development, whether single-family, duplex, triplex, multifamily or mobile home, of eight units or more;
- (b) All new nonresidential development involving land of one acre or more in size;

- (c) All new construction commenced after the filing of a petition for annexation, regardless of the date of application for or issuance of a building permit, if the project would be subject to the assessment if constructed on land already within the corporate limits of the city;
  - (d) All expansion of existing residential development, whether single-family, duplex, triplex, multifamily or mobile home, which will result in the addition of eight or more units;
  - (e) All expansion of existing nonresidential development on property one acre or more in area which will result in an increase to the current floor area of 50 percent or more;
  - (f) All redevelopment of existing residential development which will result in a net increase of eight or more residential dwelling units;
  - (g) All redevelopment of existing nonresidential development which will result in a net increase of eight or more residential dwelling units and 50 percent or more floor area;
  - (h) All redevelopment of existing residential development to nonresidential development on property one acre or more in area which will result in a net increase of 50 percent or more floor area.
- (2) Exceptions to subsection (1) of this section are hereby granted under the following conditions:
- (a) Any parcel which has previously met the city's land dedication requirements under the previously established terms of annexation shall not be subject to an additional dedication requirement, provided development intensity does not exceed the level established by zoning or specifically authorized by site plan or subdivision plat approval at the time of land dedication or payment in lieu thereof. Should the applicant seek to increase the intensity of use, the city shall impose an additional fee, the amount of which is the difference between the previous dedication and the dedication amount which is determined according to the provisions of this article for the portion of the project which is proposed to be expanded.
  - (b) Any property which was the subject of an agreement to annex executed prior to July 7, 1983, the effective date of this article, is exempt from the provisions of this article.
  - (c) Any preexisting agreements to provide open space, park or recreation land, established through site plan, subdivision plat or annexation procedures, shall be honored by both the city and the affected private parties.
  - (d) Development, redevelopment or expansion of properties located within the downtown redevelopment area, designated as the Community Redevelopment Area in Resolution 02-41, approved by the city commission on August 8, 2002, shall be exempt from the provisions of this article. (Code 1980, § 116.48; Ord. No. 6763-01, § 6, 4-19-01; Ord. No. 7957-08, § 2, 6-19-08)

**Sec. 54.53. Fees—Determination of amount.**

(1) The amount of the open space impact fee to be assessed is established based on the ratio between public open space and developed land within the city. The inventory information and methodology are outlined in the open space and recreation study prepared in support of this article.

(2) All new development and annexation, if applicable, shall be assessed an open space land impact fee as set out in appendix A to this Code. For the expansion of existing projects, the open space land impact fee shall be as set out in appendix A to this Code.

(3) The city manager or the manager's designee, with the advice and recommendation of the parks and recreation director, shall determine whether the open space impact fee shall be satisfied by a land dedication, money payment, or a combination thereof. In making this determina-

tion, the city manager and parks and recreation director shall use as a basis the following criteria:

- (a) Preservation of environmentally sensitive areas;
- (b) Amount of land to be dedicated;
- (c) Presence or absence and location of other open space resources in the area;
- (d) Planned open space needs, as documented in the comprehensive plan;
- (e) Ability to maintain open space lands in a cost effective manner.

(Code 1980, § 116.49; Ord. No. 5541-94, § 1, 3-3-94; Ord. No. 5836-95, § 10, 6-1-95; Ord. No. 6763-01, § 7, 4-19-01)

**Sec. 54.54. Same—Method and timing of payment.**

(1) The transfer of land in satisfaction of the provisions of section 54.53 shall be by deed conveying title in fee simple, permanent open space easement, or any other equivalent conveyance which would have the effect of providing the benefits of recreation land in perpetuity to the residents and visitors of the city to the satisfaction of the city attorney.

(2) Payment of moneys in satisfaction of the provisions of section 54.53 shall be made by certified check, cashier's check or cash.

(3) Conveyance of title, easement or other transfer of interest and any monetary payment in lieu of land dedication shall be according to the following schedule:

- (a) *New construction subsequent to annexation petition:* Prior to second reading of the ordinance effectuating annexation.
- (b) *Subdivision plat:* Prior to city approval and signature of the final or record plat.
- (c) *Site plan:* Prior to the issuance of the initial building permit for any residential dwelling or nonresidential structure on the property. If the development order authorizes phased development, with clearly delineated phase lines displayed on the approved plan, then any conveyance shall occur prior to the issuance of

the initial building permit for the first phase and any monetary payment corresponding to a phase shall be due prior to the issuance of the initial building permit for such phase.

(Code 1980, § 116.50; Ord. No. 6763-01, § 8, 4-19-01)

**Sec. 54.55. Use of moneys and land.**

(1) A nonrevocable trust fund shall be established to serve as a depository for moneys received as open space impact fees. Programming of fund expenditures shall be included in the annual capital budget of the city, or as may otherwise be approved by the city commission following a public hearing. Expenditures of such funds shall be made in a timely manner. Funds shall be expended to purchase fee simple interests, open space easements or equivalent less-than-fee interests to secure open space to benefit the owners of the assessed properties. Funds shall be expended in accordance with policy 24.2.2.1 of the comprehensive plan of the city, which states that open space funds shall be expended within a two-mile radius when used for the acquisition of community parkland, within a one-mile radius when used for the acquisition of neighborhood or mini-park parkland, or at any location in the city when used for the acquisition of park land to be used for the development of a resource-based recreation area. Where practical difficulties such as extent or nature of surrounding development, soil or water conditions, or political boundaries preclude meeting precisely these standards, the city reserves the right to substitute nearby facilities in a manner consistent with the service delivery program outlined in the parks and recreation element of the comprehensive plan.

(2) Lands and interests acquired pursuant to the provisions of this article shall be dedicated for public open space purposes and shall be managed in a manner consistent with the objectives and intent of this article.

(Code 1980, § 116.51; Ord. No. 5127, § 1, 10-17-91)