

Sec. 35-503. – Public Parkland and Open Space Dedication Requirement.

Parks and open space provide a valuable asset to the urban form of the city, its historical development, its environmental integrity and the general welfare of its residents. Parks and open space have provided a significant role in the history of the City of San Antonio. The Laws of the Indies provided that the size of the parks and open spaces, such as plazas, shall be proportioned to the number of inhabitants and should take into consideration the growth of the community. Consistent with the historical development of the city, it is the intent of this section that parks and open space should provide focal points for new communities. A central square or green, for example, may comprise a majority of the area required for dedication.

STATEMENT OF PURPOSE

This section implements the following provisions of the master plan:

- *Neighborhoods, Policy 3a: Protect the character and quality of neighborhoods by maintaining and enhancing their open spaces and parks.*
- *Neighborhoods, Policy 3a: Amend applicable ordinances to require developers of subdivision plats with private common areas, to establish mandatory homeowners' associations which shall be responsible for the maintenance of the common areas, or otherwise provide for same.*
- *Neighborhoods, Policy 3a: Amend applicable ordinances to require developers of subdivision plats with private common areas to file a proposed operations budget and plan for long term capital repair and replacement.*
- *Natural Resources, Policy 1d: Encourage retention of the 100-year floodplains as natural drainageways without permanent construction, unnecessary straightening, bank clearing or channeling.*
- *Natural Resources, Policy 1d: Encourage the ecological management of floodplains and promote their use as open space, such as greenways, parks, wildlife habitat, and pedestrian-friendly linkage corridors.*
- *Urban Design, Policy 1g: Prepare design and construction policies and standards for utility and transportation infrastructure, capital improvement projects, public facilities and development projects that reinforce neighborhood centers and provide diverse, pedestrian-friendly neighborhoods.*
- *Urban Design, Policy 3a: Ensure that parks are fully accessible to all citizens.*
- *Urban Design, Policy 3a: Encourage conservation and protection of identified properties through leases, conservation or scenic easements, overlay zoning districts, protective covenants, tax abatements, or acquisition (by purchase or donation).*
- *Urban Design, Policy 3a: Develop a requirement that subdividers of land provide recreational opportunities for city residents through the dedication of parkland, or fees in-lieu of dedication.*

(a) **Applicability.**

- (1) The provisions of this section shall apply to any application for residential subdivision plat approval, unless exempt pursuant to subsection (3), below.
- (2) The location and extent of parkland or designation of a fee-in-lieu of option shall be indicated on any master development plan (or plat if single phase development), with dedication of parkland deferred until a subdivision plat is filed consistent with subsection (g) of this section. Where indicated, the required area shall conform to the requirements of subsection (b) as they relate to the total number of dwelling units approved at the time the master development plan is filed.

Commentary: The master plan requires new subdivisions to include parks or to pay fees in lieu of providing parks. Developers may opt to show parks on a master development plan in order to facilitate the phasing of subdivision plats filed pursuant to the master plan. This allows some plats to be approved without individually complying with this section, so long as the requirements of this section are met for the entire development subject to the master development plan. The applicant and the city may also execute a deferment contract which provides for the provision of parks/open space during a future phase of the development.

- (3) The provisions of this section [are reduced or](#) do not apply to:
- A. A proposed subdivision located within:
 - 1. An infill development zone,
 - 2. Form based zoning district (FBZD), or
 - 3. In the CRAG area, as defined, for a development that includes a designation and rehabilitation of an eligible historic landmark not previously designated; or
 - 4. When a non-residential use is proposed (examples include: public or private schools, assisted living facilities, nursing homes, churches, "D" - downtown district, and ROW).
 - B. A proposed subdivision located within a planning area which has a surplus of improved neighborhood parks/open space, as designated in the parks system plan [is able to reduce requirements by 50% if the parkland provides connectivity to existing or proposed parkland or trails](#), unless the surplus has been eliminated by the subsequent approval of residential dwelling units within the planning area, as measured by the level of service standard established in Table 503-1, column (B).

(b) Required Parkland.

- (1) Required parkland shall be reserved for any development in the development areas set forth in column "A" of Table 503-1, below, based upon the number of dwelling units in the proposed development corresponding to the development areas as set forth in column "B" in Table 503-1 hereto.

**Table 503-1
Required Parkland**

(A) Type and Location of Development Projects	(B) Required Parkland (Acres per Dwelling)*
In the city - "RE", "R-20", "NP-15", "NP-10", "NP-8", "R-6", "RM-6", "R-5", "RM-5", "R-4", "R-3", "RM-4", "MH", TND, "PUD", "DR"	1 per 70
In the city - "MF-18", "MF-25", "MF-33", "MF-40", "MF-50" and "MF-65"	1 per 114
In the ETJ - Single-family developments	1 per 70

In the ETJ - Multi-family developments	1 per 114
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* The required acreage shall be rounded to the nearest one-tenth (e.g., 150 residential single-family dwelling units x [1/70] = 2.1 acres)

- (2) The applicant may dedicate any trail specifically delineated in the parks and recreation system plan (adopted January 1999) to the public. Any trail dedicated pursuant to this subsection will count towards meeting the required active parks and open space requirements of Table 503-1. The trails shall be maintained in accordance with subsection (f) (Preservation Parkland) of this section.
- (3) The types of parkland that may be provided to satisfy the requirements of this chapter are described in subsection (c) of this chapter.
- (4) If maintained as a private park, the required parkland shall be provided as common area for the use of all residents/occupants of the proposed development.
- (5) The following areas shall not be considered parkland pursuant to this subsection:
 - A. Areas covered by buildings, parking lots, or other impervious surfaces accessible to automobiles provided, however, that not more than fifty (50) percent of a parking area accessory to, and reserved exclusively for, a park or open space area shall be counted toward the minimum land area required by this subsection.
 - B. Utility easements, drainage easements, or street rights-of-way, unless such areas are useable for public recreational purposes and will not be permanently converted to a street or trench. Land underneath overhead utility lines shall in no instance be considered a park/open space except where used for jogging trails, bicycle trails, or parking areas accessory to a park/open space. Trails shall conform to standards set forth in Table 503-4 ~~and credit will be given for trail only.~~ It is encouraged that rights-of-way be used as the public accessible portion and with an additional 30 ft width, may be used to meet other requirements including but not limited to the provisions of Sec. 35-512 - Streetscape Planting Standards and 13.7.2.2 - On-Site Storm water Management feature when designed as green infrastructure or with nature-based storm water management practices.
 - C. Streets.
 - D. Ponds or lakes exceeding two thousand five hundred (2,500) square feet, unless surrounded by an upland area with a minimum width of twenty-five (25) feet.
- (6) Any excess capacity of a parkland provided pursuant to this section may be credited toward the dedication required herein for another subdivision within a one-mile radius (subject to subsection (e)(1) of this section), where:
 - A. The subdivision for which the credit is applied is under common ownership by the same applicant; and
 - B. The parkland is accessible to each subdivision.
- (7) **Alternate Location for Dedication (Off-Site Dedication).** In lieu of dedicating and improving park or open space within the subdivision or project boundaries as required by this section, the applicant may dedicate the amount of land required for dedication as determined in subsections (b), (c), (d), (e) and (h) of this section on any site within one (1) mile of the subdivision or project, provided that the off-site park or open space shall have frontage on a street accessible to the public being served by the park or open space. The alternate location must be approved by the director of parks and recreation, provided

however such approval shall not be unreasonably withheld. Identification of any use of this subsection must be placed on plat for recordation, to include legal description of property satisfying the park requirement.

(c) **Parkland Characteristics.**

- (1) **Generally.** Land designated as parkland shall be maintained as a park or open space and may not be separately sold, subdivided, or developed except as provided below. A minimum of 60% of the surface of the property to be used to meet the parks and open space requirement must remain in a pervious condition and a note to this affect shall be added to the plat. The applicant shall provide at least three (3) acres of contiguous parkland if land is to be dedicated to the city.

The applicant shall meet the requirements for parkland dedication through either subsection (c)(3), (c)(4) or (c)(5) detailed below.

Table 503-5 at the end of this section provides a variety of options that may be utilized to meet the parkland dedication requirements. This table is for illustrative purposes only, and the language within each category is to serve as descriptive and not a requirement.

- (2) **Designation.** Any areas reserved as parkland shall be indicated on the application for development approval. A parkland provision and maintenance plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all proposed parks or open-space required by this section. The plan shall:
- A. Designate areas to be reserved as a park (for parkland with improvements) or open space (for parkland without improvements).
 - B. Specify the manner in which the park or open space shall be perpetuated, maintained, and administered.
- (3) **Parks and Open Space.**
- A. Applicants may set aside parkland as parks or open space to be maintained privately by an approved organization that meets the requirements of subsection (e) and the minimum size requirements stated below:

Table 503-2

Zoning District	Minimum Dedication Size (in sq. ft.)	Minimum Area (Length times Width)
ETJ	10,000	100' x 100'
"RE", "R20"	20,000	100' x 100'
"NP-15", "NP-10", "NP-8", "R-6", "RM-6"	10,000	100' x 100'
"R-5", "RM-5"	10,000	100' x 100'
"R-4", "RM-4", "R-3"	10,000	100' x 100'

"MH", "MHP"	10,000	100' x 100'
"MF-18", "MF-25", "MF-33", "MF-40", MF-50, "MF-65"	10,000	100' x 100'

1. Planned unit developments will abide by the minimum requirements set forth in Table 503-2 based on the underlying zoning.
 2. If several areas are proposed for park dedication credit, the sites shall be physically linked together by pedestrian access (sidewalks or trails) to form a network of recreational opportunities; however each individual area should meet the minimum size requirement set forth in Table 503-2.
- B. The use of the parkland shall be restricted for park and recreation purposes by recorded covenant which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors;
- C. The proposed private parkland shall be reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location.

(4) Multi-Use Paths.

A. Collectors and Arterials.

1. The entire areas along a collector or arterial that meet the following requirements may also be counted against the minimum requirements set forth in this chapter:
 - i. Minimum length of collector is two hundred (200) feet.
 - ii. Additional width of twelve (12) feet on either side of the collector, outside of the right-of-way.
 - iii. Construction of multi-use paths adjacent to a collector or arterial roadways, that meet minimum AASHTO standards for use by both pedestrians and bicyclists.
 - iv. Path shall be defined by placing a planted strip of not less than three (3) feet between the back of the curb and the street edge of the path.
 - v. In addition to the minimum streetscape requirements detailed in section 35-512, one (1) large tree and one (1) medium tree shall be planted every one hundred (100) feet or fraction thereof. Additional tree requirements above and beyond the minimum streetscape requirements shall be counted toward any tree mitigation requirement.
 - vi. Additional credit is not awarded for capital improvements.

(5) School Site Locations. Park sites shall be located, whenever possible, adjacent to and contiguous with school sites in order to make maximum use of common facilities and grounds. Land area dedicated to a school district shall be credited toward the minimum requirements of subsection (b) of this section if there is a joint use agreement between the city and the school district.

If the parkland or open space required to be dedicated by this section is included within the boundaries of a public school site, the director of parks and recreation may waive any of

the provisions of this section other than subsection (b)(1) and Table 503-1, Required Parkland.

(d) **Suitability.** In order to ensure that all designated parkland has suitable size, location, dimension, topography and general character, and proper road and/or pedestrian access, as may be appropriate, to be usable parkland, the following standards shall apply:

(1) **Distance From Lots.** Parkland shall be not further than one (1) mile (5,280 feet) from any lot or, if the proposed development does not involve a subdivision, any primary building, measured from the entrance allowing people, or bicycles to enter into the park or open space or to view the park or open space area. The foregoing distance shall be measured in a straight line, provided that the distance shall not be interrupted by an arterial street or freeway. The distance may be measured from a park or open space provided pursuant to this section, or a public park or public open space area not provided by the applicant.

(2) **Parkland in Floodplains or Water Features.**

A. Areas within a 100-year floodplain shall not exceed fifty (50) percent of the required parkland pursuant to subsection (b), above, except as provided below.

B. Water features exceeding two thousand five hundred (2,500) square feet shall not be considered as parkland unless permitted by subsection C., below.

C. The restriction on the maximum percentage of parkland in water features or floodplains (hereinafter "restricted areas") can be increased to ninety (90) percent where:

1. An area of not less than twenty-five (25) feet in width surrounding a pond or adjacent to the length of the floodplain and outside of the floodplain is improved as a greenway;

2. A trail is built along the area referenced in subsection (d)(2)C.1. above that meets the design criteria for trails described in Table 503-4. Additional credit will not be awarded for this requirement;

3. A minimum area of ten thousand (10,000) square feet, with a minimum width of one hundred (100) feet must be located outside the floodplain;

4. The structures or activities located with the restricted areas do not cause an increase in base flood elevations;

5. The velocities during a ten-year flood event do not exceed six (6) feet per second; and

6. For parkland dedicated to the city, at least one (1) acre is outside of the floodplain.

(3) **Percentage in Detention Areas.** Detention basins which are required as part of the stormwater management standards shall not qualify as parkland unless seventy-five (75) percent or more of the active and usable area is designed for recreational use and the area(s) conforms to the requirements below:

A. Detention areas shall not be inundated so as to be unusable for their designated recreational purposes. Detention areas must be designed to drain within twenty-four (24) hours.

B. Detention areas shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a three to one (3:1) slope.

C. Detention areas may count a maximum of fifty (50) percent of the park dedication requirement.

- (4) **Walls and Fences.** Walls and fences, if used shall not exceed six (6) feet in height. This requirement shall not apply to fences used in conjunction with athletic fields and courts.
 - (5) **Playground Equipment.** Playground equipment shall be located no closer than twenty-five (25) feet from a park boundary.
 - (6) **Slopes.** At least fifty (50) percent of required dedicated parkland land shall have slopes not exceeding seven (7) percent.
 - (7) **Access.** A minimum of 60% of required dedicated parkland will be accessible to the residents of the city. If streets are planned within a proposed single-family project, parkland provided pursuant to this section shall have direct access to said streets. Direct access shall not be less than fifty (50) contiguous feet along a public street or private street maintained by a homeowner's association. If no streets are planned within a proposed single-family project, parkland provided pursuant to this section shall have direct access of not less than fifty (50) contiguous feet along a public street. Parkland provided within proposed multi-family projects shall have direct access to a public street or private street maintained by a homeowner's association or condominium association, or an interior driveway maintained by an apartment association.
- (e) **Designation of Parkland.** Areas designated as parkland shall not be subdivided, but shall be shown as a "park" or "open space" on a plat. In order to ensure that parkland is maintained so that its use and enjoyment as parkland is not diminished or destroyed, parkland may be owned, preserved, and maintained by any of the mechanisms described in subsections (1) through (6) below, or combinations thereof. Land protected pursuant to this subsection which is intended to be used as a park shall be deeded as a park, regardless of ownership. The instruments creating the dedication, homeowners' association, condominium association, easement, transfer, or improvement district shall be provided with the application for subdivision plat approval.
- (1) **Dedication of Land to City.** Dedication of parkland to the city shall satisfy the requirements of this subsection. Dedication shall take the form of a fee simple ownership. The city shall accept a dedication of not less than three (3) acres of contiguous parkland provided:
 - A. Such land is accessible to the residents of the city;
 - B. The parkland area meets the requirements of subsection (d) of this section;
 - C. There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance;
 1. An environmental survey of the property shall be submitted.
 2. A metes and bounds and boundary survey of the property shall be submitted.
 3. A warranty deed shall be submitted to verify ownership along with a submittal determining property value.
 - (2) **Homeowners' Association.**
 - A. Common ownership of parkland by a permanent homeowners' association which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event that any private owner of parkland fails to maintain same according to the standards of this chapter, the director of parks and recreation may, following reasonable notice and demand that deficiency of maintenance be corrected, enter the parks and/or open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the parks and/or open space. The association shall be formed and operated under the following provisions:
 1. The developer shall provide a description of the association, including its bylaws and methods for maintaining the parkland.

2. The association shall be organized by the developer and shall be operated with a financial subsidy from the developer before the sale of any lots within the development.
 3. Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
 4. The association shall be responsible for maintenance of insurance and taxes on parkland, enforceable by liens placed by the city on the association. The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments. Such liens may require the imposition of penalty interest charges. Should any bill or bills for maintenance of parkland by the city be unpaid by November 1 of each year, a late fee of fifteen (15) percent shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.
 5. A proposed operations budget and plan for long-term capital repair and replacement of the parkland shall be submitted with the final plat. The members of the association shall share the costs of maintaining and developing such parkland. Shares shall be defined within the association bylaws. The operations and budget plan shall provide for construction of any improvements relating to the parkland space within three (3) years following recordation of the plat.
 6. In the event of a proposed transfer, within the methods here permitted, of parkland by the homeowners' association, notice of such action shall be given to all property owners within the development.
 7. The association shall have or hire staff to administer common facilities and properly and continually maintain the parkland.
- B. The homeowners' association may lease parkland to any other qualified person, or corporation, for operation and maintenance of such parkland, but such a lease agreement shall provide: (1) that the residents of the development shall at all times have access to the parkland contained therein; (2) that the undivided parkland to be leased shall be maintained for the purposes set forth in this chapter; and (3) that the operation of park facilities may be for the benefit of the residents only, or may be open to the residents of the city, at the election of the developer and/or homeowners' association, as the case may be. The lease shall be subject to the approval of the board and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements so entered upon shall be recorded with the county clerk within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the city.
- C. Failure to adequately maintain the undivided parkland in reasonable order and condition constitutes a violation of this chapter. The city is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within thirty (30) days.
- (3) **Condominiums.** The undivided parkland and associated facilities may be controlled through the use of permanent condominium agreements, approved by the city. Such agreements shall be in conformance with the Uniform Condominium Act, V.T.C.A. Property Code Ch. 82. All undivided parkland shall be held as a "common element." A proposed operations budget and plan for long-term capital repair and replacement shall be submitted with the application for development approval.
- (4) **Dedication of Easements.** The city may, but shall not be required to, accept easements for public use of any portion or portions of undivided parkland, title of which is to remain in

ownership by condominium or homeowners' association, provided: (1) such land is accessible to city residents; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and (3) a satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the city.

(5) **Transfer of Easements to a Private Conservation Organization.** An owner may transfer perpetual easements to a private, non-profit organization, among whose purposes it is to conserve parkland and/or natural resources (such as a land conservancy), provided that:

- A. The organization is a bona fide conservation organization with perpetual existence;
- B. The organization is financially capable of maintaining such parkland;
- C. The conveyance contains legally enforceable provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions;
- D. The organization shall provide a proposed operations budget and plan for long term capital repair and replacement; and
- E. The developer and the organization enter into a maintenance agreement.

(6) **Improvement Districts.** An improvement district established pursuant to:

- A. The Public Improvement District Assessment Act, V.T.C.A. Local Government Code § 372.001 et seq.
- B. A municipal utility district established pursuant to V.T.C.A. Water Code Ch. 54.
- C. Tax increment financing pursuant to V.T.C.A. Local Government Code Ch. 374.
- D. A development corporation established pursuant to Development Corporation Act, Tex. Rev. Civ. Stat. Ann. art 5190.6

(f) **Development Phasing.**

- (1) In residential subdivisions which are to be platted in two (2) or more phases, the required parkland dedication, pursuant to this section, must be provided in each phase of the subdivision except as provided in subsection (2), below.
- (2) If the subdivision is proposed in phases and the proposed parkland is shown on a master development plan, and the first phase includes less than seventy (70) residential units, then the applicant may plat the first phase pursuant to the master development plan and defer the provision of parkland to the second phase of the development provided, however, that:
 - A. No further subdivision plat shall be approved unless and until parkland is provided in increments equal to the acreage required pursuant to subsection (b) of this section, subject to the phasing provisions of Table 503-3 below;

Table 503-3

Number of Lots	Acres of Parkland Required	Timing of Improvements
1—70	Up to 1 (minimum size of one (1) acre)	Phase 2
71—140	Up to two (2)	Phase 3

Lots 141 through completion	As required by subsection (b) of this section	At time of platting
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B. If any phase of the subdivision is platted without providing the required parkland at the time of platting and no future subdivision phases are planned pursuant to the master development plan, the parkland required shall be provided within one (1) year after recordation of the plat and shall be secured by deferment contract as provided in subsection (3). The failure to provide parkland as provided herein shall be deemed a violation of this chapter and shall be enforceable as provided in section 35-494.

Example: A master development plan is approved for five hundred (500) residential lots. The applicant may secure plat approval for the first seventy (70) lots without providing parkland. The applicant files a plat for approval of a second phase containing one hundred fifty (150) lots. The second phase may not be approved until at least one (1) acre of parkland is provided based on the number of lots approved in phase 1.

C. The city shall authorize the developer to reserve parkland for dedication in subsequent phases of the subdivision by executing an enforceable contract with the city. The contract shall be approved by the city attorney and the director of parks and recreation. In addition, the developer shall dedicate a reversionary public access easement on the final plat of the proposed development where necessary to provide effective public access, maintenance and use of any parkland to be dedicated.

(g) **Fee in Lieu of Land Dedication (Optional).** The intent of the park dedication requirement is to provide parks in neighborhoods. However, circumstances may arise that do not allow parkland dedication.

(1) In lieu of the dedication of required parkland, an applicant may deposit with the city a payment in lieu of land.

A. Applicants may meet up to one hundred (100) percent of the parkland dedication requirement through the payment of a fee in lieu of dedication when:

- i. The proposed subdivision contains less than two hundred ten (210) dwelling units; or
- ii. The proposed subdivision includes multi-family development and lies within Loop 410.

B. Applicants may meet up to fifty (50) percent of their dedication requirement through the payment of a fee in lieu when the proposed subdivision contains two hundred ten (210) or more dwelling units, but less than three hundred fifty (350).

C. Proposed subdivisions exceeding three hundred fifty (350) dwelling units may not pay a fee in lieu of the required parkland dedication.

(2) The director of parks and recreation shall determine the amount to be deposited, based on the following formula:

$(A \times V) + D = M$	
A =	The amount of land required for dedication as determined in subsection (b) of this section.

V =	The fair market value (per acre) of the property to be subdivided, as established by an approved method.
D =	The average development cost as calculated in subsection (5) of this section.
M =	The number of dollars to be paid in lieu of dedication of land.

- (3) For purposes of computing the fair market value of property, variable V in equation above, the applicant may select one (1) of the following:
- A. The fair market value at the time of application of the undeveloped land as determined by a ~~an~~ MAI certified real estate appraiser at the applicant's expense; or
 - B. The actual purchase price of the property as evidenced by the applicant's most recent purchase money contract or closing statement dated within two (2) years of the date of application.
- (4) The fair market value, variable V, shall not be less than fifty thousand dollars (\$50,000) and shall not exceed one hundred fifty thousand dollars (\$150,000.00) ~~(\$50,000.00)~~ per acre. The fair market value cap may be revised annually during the city's budget adoption process beginning with the adoption of the fiscal year 2007 budget. The annual revision shall be based upon no more than the cumulative Consumer Price Index. Beginning in 2010, and once every fifth year thereafter, the fair market value cap may be adjusted based on the evaluation and recommendation of a consultant selected and engaged by the city.
- (5) For purposes of computing the additional amount for development cost of street and pedestrian access and utilities of the site, variable D in the equation above shall equal the total number of dwelling units multiplied by two hundred fifty dollars (\$250.00). The amount established in this subsection may be revised annually during the city's budget adoption process beginning with the adoption of the fiscal year 2007 budget. The annual revision shall be based upon no more than the cumulative Consumer Price Index. Beginning in 2010, and once every fifth year thereafter, the fair market value cap may be adjusted based on the evaluation and recommendation of a consultant selected and engaged by the city.
- (6) All fees collected shall be used for the acquisition of land for a public park and/or development or construction of improvements to existing public parkland, within one (1) mile of the periphery of the proposed development. However, if [1] such acquisition opportunities are not available or [2] existing parkland is already developed or improved within one (1) mile of the proposed subdivision or development, then areas within two (2) miles of the periphery of the proposed subdivision or development may be considered. For fees collected that do not exceed fifteen thousand dollars (\$15,000.00), and there are no available properties within two (2) miles, then areas within four (4) miles of the periphery of the proposed subdivision or development may be considered for the acquisition and development of public parkland and/or construction of improvements to existing public parkland within such periphery.
- (7) There is hereby established a special fund for the deposit of all fees collected under this subsection (g), which fund shall be known as the park acquisition and development fund. Within the fund all fees paid shall be earmarked for expenditure on acquisition of land for a

public park and/or park improvements in a public park generally located within the distance described in subsection (6) above. All fees in lieu of parkland dedication paid must be expended within ten (10) years from the date of receipt for park facilities benefiting the residential subdivision or dwelling unit for which the fees are paid. Fees shall be considered expended if they are spent for acquisition or development respectively, of public parks located within the distance described in subsection (6) above for which the fees were paid within the ten-year period. If fees are not expended within such period, the then-current owner shall be entitled to a refund of the principal deposited by the applicant in such fund, together with accrued interest. The owner must request such refund in writing within three hundred sixty-five (365) days of entitlement or such right shall be waived. Interest accruing to the park acquisition or development fund shall be expended on public parkland acquisition and/or for public park improvements, respectively.

(h) Credit for Park Facilities.

- (1) Where parkland is provided in a proposed residential subdivision, credit may be given to the applicant where the following requirements are met:
 - A. The parkland shall be maintained as provided in subsection (f) of this section. The ultimate owner of the parkland shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the parks and/or open space through annual dues, special assessments, or similar arrangements.
 - B. One (1) copy of the sealed site plan and sealed construction documents for the proposed park shall be submitted to the appropriate plan review personnel within the parks and recreation department during the development review phase.
- (2) The acreage required for dedication pursuant to Table 503-1 above may alternately be reduced by providing park facilities as outlined in Table 503-4 below. Credit shall be given toward the minimum land dedication requirement (see subsection (b) of this section) at the rate specified in column (C) of Table 503-4. Improvements for credit must meet all federal, state and local regulations and guidelines and be compliant with the Americans with Disabilities Act.

**Table 503-4
Park Facilities Credit**

(A) Criteria List	(B) Design Criteria	(C) Credit Acres
Playground	See subsection (3), below.	1.25
Picnic Area	Picnic areas shall have a minimum area of 2,500 square feet and contain two (2) picnic units. A picnic unit is defined as a concrete, metal, or approved material picnic table, two (2) benches, and a cooking grill all permanently anchored to the slab. For every three (3) acres of parkland required, credit for one (1) picnic area may be awarded.	0.25


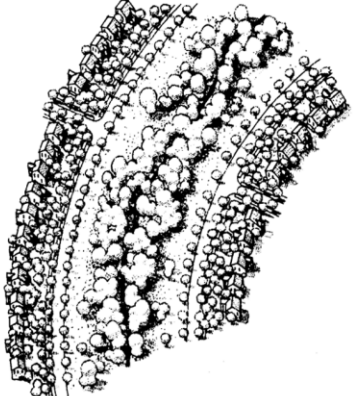
Athletic Courts	<p>The court slab shall have a slope not exceeding two (2) percent and shall be constructed of concrete or approved substitute. A basketball court must be a minimum of fifty (50) feet by forty (40) feet, with two (2) metal goals, nets, backboards, and poles at each end. A tennis court must be a minimum of sixty (60) feet by one hundred twenty (125) feet, with net and metal posts. A volleyball court must be a minimum of thirty (30) feet by sixty (60) feet, with net and metal posts, and the court must be constructed with either sodded Bermuda grass or a twelve (12) inch course of washed masonry sand or silica sand. If the park dedication requirement exceeds five (5) acres, then an additional three-fourths $\frac{3}{4}$ acre credit may be awarded for a second athletic court.</p>	.75
Open Play Areas	<p>An open play area shall include a minimum area of 20,000 square feet. The areas shall be unobstructed by trees, shrubs, or utilities, with a slope not to exceed five (5) percent. Common Bermuda or approved substitute grass shall be established in these areas. Maximum of one (1) open play area for every five (5) acres of parkland dedication.</p>	1.00
Swimming Pool	<p>Minimum 500 square feet of water surface, with adjacent deck and lawn areas. A maximum of one and one-half (1½) acres credit may be awarded. A swimming pool may not count towards more than fifty (50) percent of the parkland dedication requirement.</p>	0.3 acres per five hundred (500) square feet of surface area
Recreation Center Building	<p>The building shall be in habitable condition and shall have a minimum one thousand (1,000) square feet of gross floor area. The covenants and restrictions of the homeowners' association shall restrict the building for use as a recreational and/or meeting area for use by all residents of the subdivision. Architectural design shall</p>	.50 for 1,000—1,500 square feet; 1.00 for over 1,500 square feet.



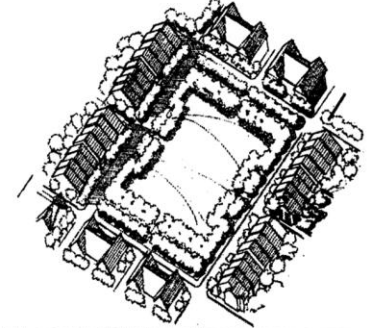
	conform to the restrictive covenants recorded for the subdivision. Credit shall be awarded for only one (1) building. A recreation building may not count towards more than fifty (50) percent of the parkland dedication requirement.	
Recreation Community Gardening	Community gardens shall have a minimum area of ten thousand (10,000) square feet with a slope not exceeding two (2) percent. Maximum of one (1) community garden for every five (5) acres of parkland dedication requirement.	0.25
Pavillion/Gazebo	Pavilions must be constructed with galvanized metal roofing or, an approved substitute and posts constructed of wood, metal, stone, or an approved substitute, and shall be a minimum of twenty (20) feet in width by twenty (20) feet in length. Gazebos may be constructed of either wood, metal, or approved substitute, and shall be a minimum of one hundred (100) square feet in size. Architectural design for overhead structures shall conform to the restrictive covenants recorded for the subdivision. Maximum of one (1) overhead structure for every five (5) acres of parkland dedication requirement.	0.25
Outdoor Gymnasium Facilities	Outdoor Gym must meet minimum dimensions of forty (40) feet in width by forty (40) feet in length (or 1,600 square feet), and consist of at least six (6) stations constructed of metal or an approved substitute material. Stations must be secured as recommended by the manufacturer. A maximum of 1.0 acres credit may be awarded.	1.0
Fitness, Jogging or Walking Trails	Trails shall have a minimum length of one-quarter (¼) mile. Trails shall be constructed of crushed granite, concrete, or asphalt, with a minimum thickness of four (4) inches, a minimum width of eight (8) feet, and shall be sloped to drain. A maximum of two and one-fourth (2¼) acres credit	1.50 for first quarter (¼) mile length; .75 for an additional quarter (¼) mile length unless the property connects to an existing or proposed trail system as a part of another property to allow continuous access for 1.25

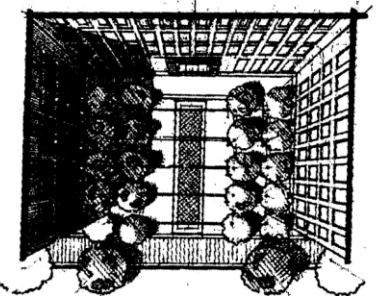
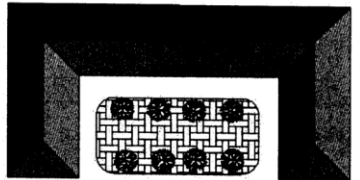
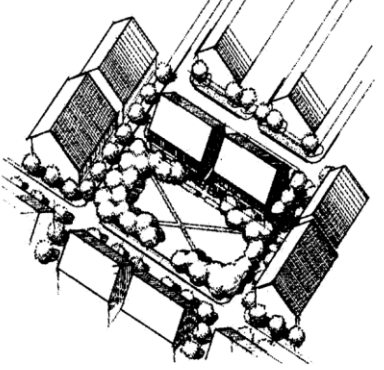
	may be awarded for trails.	credit.
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- (3) Specifications for playgrounds as set forth in Table 503-4 shall conform to the following minimum requirements:
- A. Playground is to be of commercial standards. The parks and recreation department will provide a list of potential vendors.
 - B. The playground area shall have a slope not exceeding two (2) percent.
 - C. Playgrounds are to include equipment for two (2) distinct play abilities and may be located in the same or in separate areas,
 - i. One (1) area designed for ages two (2) through five (5) years old with a minimum of six (6) activities, and a
 - ii. Second area designed for ages five (5) through twelve (12) years old with a minimum of twelve (12) activities.
 - D. Playgrounds must meet all federal, state, and local regulations and guidelines and be compliant with the Americans with Disabilities Act, as well as guidelines set up by CPAC and NPSI.
 - E. The following items shall be provided: at least two (2) park benches, one (1) trash receptacle, and an open shelter.
 - F. Playground equipment shall be located no closer than twenty-five (25) feet from a park boundary.

TABLE 503-5
Typical Park Categories. (This Table is provided for illustrative purposes only.)

(A) Park or Open Space Catego- ry	(B) Description	(C) Maintenance Requirements	(D) Illustration
Natural Areas and Agricultural Areas	<p>Natural Areas are areas established for the protection of natural attributes of Local, regional, and statewide significance, which may be used in a sustainable manner for scientific research, education, aesthetic enjoyment, and appropriate use not detrimental to the primary purpose. These areas are resource rather than user-based, but may provide some passive recreational activities such as hiking, nature study, and picnicking. Natural Areas may include floodplains mapped by FEMA with a drainage area exceeding 300 acres, or creeks with a drainage area of less than 300 acres.</p>	<p>Maintenance is limited to a minimum removal and avoidance of hazards, nuisances, or unhealthy conditions. Natural watercourses shall be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.</p>	
Greenways	<p>Greenways are areas connecting residences and recreational areas. Greenways are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods. Parkway and greenways differ from parks, plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.</p>	<p>A Greenway may be counted as Open Space provided, however, that: (1) the greenway shall have an average width of not less than fifty (50) feet; and (2) if the greenway consists of agricultural areas, the agricultural areas shall have a continuous area of not less than fifty (50) acres. The agricultural areas may be combined with adjacent agricultural lands provided, however, that the minimum width prescribed above shall be met on all portions of the agricultural greenbelt on the site.</p>	

(A) Park or Open Space Catego ry	(B) Description	(C) Maintenance Requirements	(D) Illustration
Greenbelts	<p>Greenbelts run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or from agricultural areas or adjacent neighborhoods. Greenbelts differ from the other types of open spaces in that they are left natural, and are not for recreational use.</p>	<p>There is no tree planting requirement along rights-of-way for greenbelts.</p> <p>The following uses are permitted within the greenbelt: (1) Critical Areas, (2) Conservancy Lots with a minimum lot size of five (5) acres and a maximum impervious surface ratio of five percent (5%), or (3) linear parks improved with trails, benches, and/or playground equipment. Trails, benches and playground equipment shall not be considered impervious surfaces for purposes of computing impervious surface.</p> <p>The Greenbelt shall be an average of not less than one-hundred (100) feet in width and not less than fifty (50) feet at any point.</p>	
Playgrounds	<p>Playgrounds provide play areas for children as well as open shelter with benches for parents. Playgrounds may be built within squares and parks or may stand alone within a residential block.</p>	<p>Minimum Size: 5,000 square feet Maximum Size: 20,000 square feet</p> <p>Playing surfaces may be covered in sand, wood chips, or other equivalent material. Paths and walkways may be paved in concrete, crushed gravel, brick paver, or similar material, or partially paved.</p>	
Plazas	<p>Plazas are areas for passive recreational use which are entirely bounded by streets and/or lanes. Plazas are intended for master planned communities such as planned Unit developments (PUD's), or Traditional Neighborhood developments (TND's), or for non-residential Use Patterns defined in Article 2 (Commercial Centers, office or Institutional Campuses, and Commercial Retrofits).</p>	<p>The plaza shall be square or rectangular with a length of not less than one and a half its width. The plaza shall be bounded on all sides by streets, with streets originating in the middle of each side, and two streets originating from each corner.</p> <p>Minimum width: 200 feet Minimum length: 300 feet Maximum width: 530 feet Maximum length: 800 feet</p>	

(A) Park or Open Space Catego ry	(B) Description	(C) Maintenance Requirements	(D) Illustration
Courtyard	<p>A Courtyard is an open area adjacent to, or part of, a civic building or facility. Courtyards function as gathering places and may incorporate a variety of non-permanent activities such as vendors and display stands. Courtyards shall be credited toward Parks and Open Space requirements only for non-residential Use Patterns defined in Article 2 (Commercial Centers, office or Institutional Campuses, and Commercial Retrofits), and shall be maintained in private ownership.</p>	<p>Parking is permitted only at the edge of the Courtyard. Courtyards shall be paved in brick or other type of paver, or crushed stone. Courtyards shall be level, stepped, or gently sloping (less than 5% grade). At no time shall a Courtyard's horizontal length or width be greater than 3 times the height of the surrounding building(s).</p> <p>Minimum size: 2,000 sq ft Maximum size: 30,000 sq ft</p> <p>Courtyards may be left unplanted. If planted, the trees shall frame the Courtyard space or the structure which the Courtyard services. Tree spacing shall be a maximum of 25 feet on center.</p>	
Forecourt	<p>Forecourts are open space areas which act as buffers between residential and non-residential buildings or streets. Forecourts shall be credited toward Parks and Open Space requirements only for non-residential Use Patterns defined in Article 2 (Commercial Centers, office or Institutional Campuses, and Commercial Retrofits), and shall be maintained in private ownership.</p>	<p>Forecourts shall be entirely bounded by streets and shall be planted parallel to all street right-of-ways with one tree species.</p>	
Attached Squares	<p>Attached Squares are areas for passive recreational use which are internal to a block.</p>	<p>Squares shall be bounded by streets on a minimum of three sides or 75% of their perimeter. Squares may be bounded by buildings on a maximum of 60% of their perimeter (maximum of 2 sides) in order to provide a central gathering area for the community.</p> <p>Squares shall be planted parallel to all rights-of-way with at least two (2) tree species a minimum of 10 feet and a maximum of 50 feet on center. All internal tree plantings (if provided) shall be in geometrical layouts.</p> <p>Minimum size: 2000 square feet Maximum size: 1 acre</p>	

(A) Park or Open Space Catego ry	(B) Description	(C) Maintenance Requirements	(D) Illustration
Park	<p>Parks may be designed for active recreational use. Parks create a central open space which services an entire neighborhood or group of neighborhoods, or incorporate physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).</p> <p>Parks may be combined with parkways and greenbelts.</p> <p>Parks shall include at least three (3) of the facilities listed in the "Basic Facilities Menu" for Neighborhood Parks in the Parks and Recreation System plan (page 230).</p>	<p>public parks shall be bounded by streets on a minimum of 50% of their perimeter (subject to lot line configurations). Private Parks shall be bounded by streets on 25% of their perimeter.</p> <p>Minimum size: 1 acre</p> <p>Trees shall be planted parallel to all perimeter rights-of-way with one species type, a minimum of 15 feet to a maximum of 50 feet on center.</p> <p>Promenades, and Esplanades within a park may be formally planted with trees parallel to the walkway. Areas under dense tree plantings shall be paved with crushed gravel. Interior portions of parks may be kept free of tree plantings. Areas for active recreational use and any facilities which accompany such use shall have a tree planting design which integrates the structures into the park and defines the areas set aside for active use from areas of passive use. plantings in interior portions of parks are encouraged to follow topographical lines.</p>	
Parkway	<p>Parkways are open spaces designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods. Parkway and greenways differ from parks, plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.</p>	<p>Parkways shall be entirely bounded by streets or pedestrian rights-of-way within developed areas.</p> <p>Parkways may be used for certain active recreational uses such as walking, jogging, or bicycling.</p> <p>Trees shall be planted along all rights-of-way a minimum of 10 feet and a maximum of 50 feet on center, with one species type. Interior areas shall remain natural and any additional plantings shall be informal in design.</p>	

(Ord. No. 2006-11-30-1333, § 2, 11-30-06) (Ord. No. 2009-01-15-0001, § 2, 1-15-09) (Ord. No. 2010-11-18-0985, § 2, 11-18-10) (Ord. No. 2012-10-18-0829, § 2, 10-18-12; Ord. No. [2015-12-17-1077](#), § 2, 12-17-15)