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**ARTICLE V.
SCHOOL AND PARK SITE DEDICATIONS**

Sec. 62-326. Dedication of park lands and school sites, or contribution of fees in lieu thereof required.

As a condition of approval of a final plat of subdivision or planned unit development, each subdivider or developer shall dedicate land for park purposes, and for school sites, or shall contribute cash in lieu of actual land dedications, or a combination of both, at the option of the city, to serve the immediate and future needs of the residents of the development, in accordance with the criteria and formulas contained in this article.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-327. Requirements for park land dedications.

(a) Calculation of requirement. The estimated ultimate population of a proposed development shall bear directly upon the amount of land required to be dedicated for park and recreational purposes. The minimum requirement shall be 5.5 acres of land per 1,000 of ultimate population in accordance with the standards set out in this section.

Type of recreation area	Recommended size range	Minimum acres per 1,000 people
School park neighborhood playground	Minimum park of 5 acres adjacent to school site	1.25
Neighborhood park	Minimum 3 1/2 acres	1.0
District wide park or play field	Minimum 4 acres up to 30 acres	1.25
Community wide recreation park	Minimum 12 acres up to 30 acres	2.0
	Total	5.5 acres of land per 1,000 people

(b) Park site size and location standards. The park land to be dedicated shall be located in accordance with the city's comprehensive plan and with the requirements of the park district having jurisdiction over the proposed development. The size and general location of sites to be dedicated shall be subject to the approval of the park district having jurisdiction, prior to approval of the preliminary plat. The suitability of land to be dedicated for park sites shall be evaluated according to the following standards:

(1) The site should be essentially regular in shape to facilitate maintenance and to provide the optimum opportunity for recreational use.

(2) The site should not be located on a major road if such a location would present a traffic hazard to park users.

(3) A maximum of 50 percent of the site may be utilized for storm water control facilities, if approved by the park district having jurisdiction. Park sites including retention or detention facilities shall be a minimum of five acres in size, unless otherwise approved by the park district.

(4) The site should have soil and topographic conditions suitable to accommodate the facilities anticipated for the site, such as parking areas, play fields, tennis courts, playground equipment, or other recreational facilities.

(5) The site should be located in the approximate center of the residential area to be served, adjacent to a school site where applicable.

(6) The site should be located in conjunction with compatible land uses.

(c) Credit for private open space and recreational facilities. The provision of private open space and recreational facilities has the effect of reducing the demand for public parks and recreational facilities. Therefore, consideration may be given to reducing the required dedication or contribution for park and recreational land by the substitution of private open space and recreational facilities. The extent of this substitution shall be determined by the city council, based on the following standards:

(1) Detailed plans of private open space and recreational facilities shall be submitted as part of the preliminary plat approval process, and shall be subject to approval by the city and park district.

(2) Any private open space or recreational facilities which are substituted for required dedications shall be reasonably related to the needs of the projected residents.

(3) The private facilities shall not be disruptive to the plan for public parks and recreational land in the area.

(4) Private open space which is substituted for required dedications shall be improved by the developer or subdivider so as to provide recreational opportunities for the projected residents.

(5) Permanent maintenance of private open space and recreational facilities shall be guaranteed by the execution of appropriate legal documents.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-328. Requirements for school site dedication.

(a) Calculation of requirement. The estimated ultimate student population for grades K through 12 of the proposed development shall bear directly on the amount of land required to be dedicated for school sites. The minimum requirement shall be one and one-half acres per 100 of estimated ultimate student population in accordance with the standards set out in this section.

(b) School site size and location standards. School sites shall be sized and located in accordance with the city's comprehensive plan and with the requirements of the school district having jurisdiction over the proposed development. The size and general location of sites to be dedicated shall be subject to the approval of the school district having jurisdiction prior to approval of the preliminary plat. The suitability of land to be dedicated for school sites shall be evaluated according to the following standards:

(1) The site should be essentially regular in shape, to allow the proper design of the school building, playground, and parking areas.

(2) The site should not be located on a major road if such a location would present a traffic hazard to school children.

(3) The site should not be subject to frequent flooding.

(4) The site should have suitable soil and topographic conditions.

(5) The site should be located in the approximate center of the residential area to be served.

(6) The site should be located in conjunction with compatible land uses.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-329. Criteria for requiring a cash contribution in lieu of park and school site dedications.

(a) When cash contribution required. Where the subdivision or development is small and the resulting site is too small to be practical, or when available land is inappropriate for park or school sites, or where park or school sites have already been provided, the city council, on the advice of the appropriate district, may require, by resolution, the payment of cash contributions in lieu of the required land dedications.

(b) Disposition of contribution in lieu of park site. Any cash contribution in lieu of park land dedication shall be paid directly to the city prior to the recording of the final plat. The cash contribution shall be held in a segregated account by the city solely for the acquisition of park land or the improvement of existing or purchased park land which will be available to serve the needs of the residents of that subdivision or development. In addition to the foregoing requirements, it is also required that the cash contribution be expended for the acquisition of park land or the improvement of existing or purchased park land within the corporate boundaries or planning area of the city.

(c) Disposition of contribution in lieu of school site. Any cash contribution in lieu of school site dedication shall be paid directly to the city prior to the recording of the final plat. The cash contribution shall be held in a segregated account by the city solely for the acquisition or improvement of a school building, the acquisition or improvement of a school site or the improvement of areas adjacent to a school which serves the needs of children from the subdivision or development. In addition to the foregoing requirements, it is required that the cash contribution be expended for the acquisition of school site land or for the construction or improvement of a school building within the corporate boundaries or planning area of the city.

(d) Utilization of contribution if not expended. If any portion of the cash contribution in lieu of park or school site dedication is not expended for the purposes set forth in this section within ten years from the date of receipt, it shall be returned on a proportionate basis to those parties who are then the successor title holders of record to the property, subdivision or development which generated the cash contribution.

(e) Amount of cash contribution. The cash contributions in lieu of land shall be based on the fair market value of the land within the development that otherwise would have been dedicated for park and school sites. The fair market value of vacant land in and near the city is hereby determined to be \$150,000.00 per acre, which shall be used in the calculation of the required cash contribution, except as follows:

(1) If the city council determines that the specifics of the subdivision or development so warrant, it may require a formal appraisal.

(2) If the subdivider files a written objection to the use of \$150,000.00 per acre value, the subdivider shall submit a formal appraisal.

(3) When a home or number of existing homes are removed as part of a subdivision or development, the applicant shall be responsible for donations for any net increase in the number of homes and/or bedrooms within homes to be constructed on the subject property, from the number of homes and/or bedrooms previously existing on the property.

Such appraisals shall show the fair market value of the land in the area of the subdivision. Final determination of the fair market value per acre of land shall be made by the city council, based upon the appraisal or appraisals, and upon other information which may be submitted by park districts, school districts or others. The subdivider shall pay all appraisal fees. When any cash contribution is required prior to recording of the final plat, the contribution shall be based upon a four-bedroom detached single-family dwelling, a two-bedroom attached family dwelling, or a two-bedroom apartment dwelling, unless building plans have been previously submitted and are on file with the city indicating the exact number of bedrooms to be constructed within each specific dwelling unit. Adjustments to the initial cash contribution shall be made at the time of issuance of the building permit.

(f) Criteria for requiring dedication and contribution. There may be situations in subdivisions or planned unit developments when a combination of land dedication and a

contribution in lieu of land are both necessary. The city council, on the advice of the affected district, may require a combination of dedication of land and contribution of cash in the following situations:

(1) When a previously designated park or school site lies partly within and partly outside of a proposed subdivision of PUD, and the size of that part of the designated park or school site within the subdivision or PUD is less than the required dedication, then the subdivider shall dedicate that portion of the park or school site lying within the proposed subdivision or PUD and contribute cash in lieu of the additional land needed to fulfill the dedication requirements.

(2) When a part of a park or school site has already been acquired, and the land needed to complete it to be dedicated by the subdivider is less than the required dedication, then the subdivider shall dedicate the amount of land needed from the subdivision or PUD to complete the park or school site and contribute cash in lieu of the additional land needed to fulfill the dedication requirements.

(3) When the subdivider will be dedicating land for certain park or school sites, and the balance of the required dedication would be too small or otherwise unsuitable for park or school sites, then the subdivider shall contribute cash in lieu of the additional land needed to fulfill the dedication requirements.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-330. Calculation of estimated population.

The table of estimated ultimate population per dwelling unit, attached to this article as exhibit A, shall be used to calculate the amount of required dedications and contributions. A written objection to exhibit A may be filed by the subdivider, or by the affected district. This objection shall consist of a demographic study showing the estimated ultimate population to be generated by the subdivision. Final determination of the estimated ultimate population shall be made by the city council, which may base its decision upon the objector's demographic study, and upon other studies which may be submitted by the park district, school district, or others. It is recognized that population density, age distribution, and local conditions change over time, and that, therefore, exhibit A is subject to periodic review and amendment as necessary. The number of bedrooms in a dwelling unit shall be determined in accordance with the definition of bedroom in section 62-3.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-331. Reservation of additional land.

Whenever the comprehensive plan, or the standards of the city, school district, or park district call for a larger school or park site in a particular subdivision or PUD than the subdivider is required to dedicate, the land needed beyond the developer's contribution shall be reserved for subsequent purchase by the city or other public body designated by the city on the final plat of subdivision prior to final approval by the city council. The

city or such public body designated by the city shall acquire the land so designated by purchase or commence proceedings to acquire such land by condemnation within one year from the date of approval of the final plat. If the city or other such public body does not acquire the land so designated within a period of one year, the land so designated may then be used by the owners thereof in any other manner consistent with this chapter and the zoning ordinance of the city.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-332. Combining sites with adjoining developments.

Where the subdivision or planned unit development is less than 40 acres, public open space or a school site which is to be dedicated should be combined with the dedications from adjoining or nearby developments in order to produce usable recreation areas or school sites without hardship on a particular subdivision.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-333. Condition of park sites to be dedicated.

The slope, topography, and soils of the dedicated park site and its surroundings must be suitable for recreational use, as determined by the city council on the advice of the appropriate district. Park sites shall be fine graded, provided with four inches to six inches of topsoil, and seeded, subject to the approval of the affected district, prior to written acceptance. Public improvements adjoining the park site shall be the responsibility of the subdivider. Road access, water service, sanitary sewers, and appropriate drainage facilities shall be provided to the site prior to acceptance.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-334. Condition of school sites to be dedicated.

The slope, topography, and soils of the dedicated school site and its surroundings must be suitable for construction of a school, parking facilities, and provision of recreational facilities, as determined by the city council on the advice of the appropriate district. School sites shall be fine graded, provided with four inches to six inches of topsoil, and seeded, subject to the approval of the appropriate district, prior to written acceptance. Public improvements adjacent to the school site shall be the responsibility of the subdivider. Road access, water service, sanitary sewers, and appropriate drainage facilities shall be provided to the site prior to acceptance.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-335. Real estate donation requirements.

All real estate conveyed to the city, school district, or park district pursuant to the provisions of this article shall be designated as public land. Public land is defined as real

estate to be conveyed pursuant to this article and to be utilized by the city, school district, and/or park district for uses including, but not limited to, recreational sites, lakes, storm water retention and detention areas, public forest areas, municipal service areas, public works substations, storage areas and well sites, public natural resource areas, public golf course site areas and other uses, school building sites, and playgrounds.

(1) Time of conveyance. The public land shall be conveyed to the appropriate grantee as designated by the city concurrent with the signing of the resolution approving the final plat of subdivision and prior to recording of the final plat of subdivision. Conveyance shall not be deemed to constitute written acceptance for purposes of maintenance. The subdivider shall be responsible for maintaining the public land until such land is accepted for maintenance, in writing.

(2) Standards of conveyance. The developer shall furnish the city with a survey of the public land to be conveyed and a preliminary report of title from a title company licensed to do business in the state and acceptable to the city attorney, in the minimum amount such title reports are allowed to be issued by such title company, all without cost to the city. If, within 30 days of receipt of the report of title, the city objects in writing to defects in the title, the developer shall have 30 additional days from the date of delivery of such written objections to cure such defects. The developer shall have all deeds of conveyance pursuant to this article recorded, at its sole expense, in the office of the county recorder of deeds. All conveyances pursuant to this article shall be by warranty or trustee's deed subject only to the following:

- a. Customary and standard general exceptions included in standard state licensed title company policies of insurance;
- b. Acts done or suffered by, or judgments against, the grantee, its successors, and assigns;
- c. General taxes for the year of conveyance and subsequent years;
- d. Zoning and building laws and/or ordinances;
- e. Public and utility easements of record;
- f. Conditions and covenants of record as contained only in plats of subdivision and planned unit developments approved by the city;
- g. Rights-of-way for drainage ditches, feeders, laterals, and underground tile, pipe or other conduit;
- h. Rights of the public, people of the state and the city in and to any part of the public land used for road or highway purposes or drainage systems, including retention or detention areas;
- i. Any special taxes or assessments levied by the city for improvements not done or completed prior to the date of conveyance.

(3) Restrictive covenant, sale of public land.

a. All conveyances of public land shall contain a restrictive covenant, in form approved by the city attorney, running with and binding the public land conveyed, providing for the sole and continued use of such real estate as public land, subject to the provisions of this article, in perpetuity, unless the covenant is removed by the city. If either the school district or park district desires to sell any public land, it shall first direct written notice, by certified mail, return receipt requested, to the nonselling district and the city. The written notice shall contain a legal description of the public land and statement that the owner thereof desires to sell the public land described. Upon receipt of the written notice, the following options are provided and granted:

1. The nonselling district shall have the exclusive option to purchase the public land described, at no cost, for the 30-day period next following receipt of the notice;

2. If the nonselling district fails to exercise its option within the 30-day period, the city shall have the exclusive option to purchase the public land described, at no cost, for the 30-day period next following expiration of the initial 30-day period.

b. Within 30 days of receipt of the written notice advising of the intention to sell the described public land, the city shall conduct a public hearing on the issue of the sale. Notice of the public hearing shall be mailed to all owners of real estate, as illustrated on the real estate tax records of the county, within 250 feet of the described public land. In addition, the city may, at its option, publish notice of the public hearing in a newspaper with general circulation in the city. Notice of the public hearing shall be mailed and, if appropriate, published not less than ten days prior to the proposed public hearing.

c. Any option shall be exercised by directing written notice to the owner of the public land by certified mail, return receipt requested. If both the nonselling districts and the city, whichever the case may be, fail to exercise their options, the owner of the public land may, for a one-year period thereafter, sell the public land described in the written notice to any third party, subject to the following conditions and restrictions: The purchase price must be the fair market value of the public land. If the public land is not sold within the one-year period, the owner must again comply with the procedural requirements contained in this article.

d. If any public land is sold to a third party pursuant to the terms of this article, the restrictive covenant which binds the public land shall be released and removed by the city. Provided, however, the restrictive covenant shall not be released until the proposed use and zoning of the public land have been determined, in the manner provided by law. Prior to removal and release of the restrictive covenant, the owner of the public land and the city, and their successors and assigns, shall have the right to enforce such restrictive covenant.

e. The cash received by the school district as a result of the sale of public land shall be held in a separate trust account, solely for the improvement of a school site or for construction or improvement of a school building, to serve the immediate or future needs of children from that subdivision or development wherein the public land was located.

The cash received by the park district as a result of the sale of public land shall be held in a separate trust account solely for the improvement of existing local park land to serve the immediate or future needs of the residents of that subdivision or development wherein the public land was located.

(4) Payment of general real estate taxes and agricultural rollback taxes. General real estate taxes and agricultural rollback taxes levied or which become due because of any conveyance against the public land which is conveyed shall be the responsibility and obligation of the grantor. The grantor shall furnish evidence of payment of these taxes or deposit the amount of these taxes in escrow with the title company furnishing the preliminary report of title, requiring payment of the taxes when they become due. After payment of the taxes, evidence of such payment shall be furnished to the city. The amount of any general real estate taxes and/or agricultural rollback taxes for the year of conveyance shall be prorated to the date of the delivery of deed to the city. The amount of the general real estate and agricultural rollback taxes shall be based on the assessor's latest known rate, value, and equalizer, if any, for the open space being conveyed.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-336. Applicability.

If any subdivision subject to the terms of this article is located outside of the city limits of the city, and if the county has an ordinance which is more restrictive, or which would require a greater dedication or contribution than this article, as determined by the city, the ordinance of the county shall prevail where inconsistent with the less restrictive provisions of this article.

(Ord. No. F-0663, § 3, 11-19-01)

Sec. 62-337. Additional dedications or contributions.

When a final plat of a subdivision or planned unit development is revised, contributions or dedications shall be made as required by this article, based on the estimated ultimate population of the area to be revised. If such area was subject to the terms of this article when recorded in its original form, the developer shall provide additional contributions or dedications based on the increase in estimated ultimate population, if any, attributable to the revision.

(Ord. No. F-0663, § 3, 11-19-01)

EXHIBIT A TABLE OF ESTIMATED ULTIMATE POPULATION PER DWELLING UNIT

Children per unit

Type of unit	Preschool 0--4 years 5--10 years	Elementary grades K--5 11--13 years	Junior high grades	Total grades K--8 5--	High School grades	Adults (18 and over)	Total per unit
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			6--8 years	13 14-- 17 years	9--12		
Detached single family:							
<i>Two-bedroom</i>	0.125	0.120	0.026	0.146	0.018	1.700	1.989
<i>Three-bedroom</i>	0.308	0.381	0.174	0.555	0.146	1.978	2.987
<i>Four-bedroom</i>	0.472	0.513	0.314	0.827	0.313	2.195	3.087
<i>Five-bedroom</i>	0.402	0.620	0.420	1.040	0.327	2.650	4.419
Attached single family							
<i>One-bedroom</i>	--	--	--	--	--	1.050	1.050
<i>Two-bedroom</i>	0.051	0.075	0.011	0.086	0.021	1.741	1.899
<i>Three-bedroom</i>	0.217	0.212	0.022	0.234	0.051	1.775	2.277
<i>Four-bedroom</i>	0.333	0.316	0.166	0.482	0.180	2.333	3.328
Apartments:							
<i>Efficiency</i>	--	--	--	--	--	1.000	1.000
<i>One-bedroom</i>	--	--	--	--	--	1.190	1.190
<i>Two-bedroom</i>	0.038	0.065	0.021	0.086	0.035	1.500	1.659
<i>Three-bedroom</i>	0.208	0.157	0.037	0.194	0.082	2.330	2.814

Note: There are only three significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one category is provided. The same is true with apartments, thus only one category. Because of the short history of some newer types of single units, both detached and attached individual evaluations may be necessary.

(Ord. No. F-0663, § 3, 11-19-01)

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