



Ordinance 16 - 13

An Ordinance Amending Section, 30-327, Dedication of Land or Contribution of Cash for Public Purpose of the City of Elk River, Minnesota, City Code

The City Council of the City of Elk River does hereby ordain as follows:

SECTION 1. That § 30-327, Dedication of land or contribution of cash for public purpose of the City of Elk River Code of Ordinances shall be amended to read as follows:

(a) *Dedications for park purposes required.* In every ~~plat, replat or~~ subdivision of land to be developed for residential, commercial, or industrial uses, or as a planned unit development which includes such uses or any combination thereof, it is reasonable to require that an amount of ~~land equal in value to ten percent of the undeveloped land proposed to be subdivided~~ shall be set aside and dedicated by the tract owner or owners to the city for parks, playgrounds, trails, or public open space. The amount of land that shall be dedicated shall be in accordance with the following standards:

(1) Residential uses

(a) The amount of land to be dedicated shall satisfy the parkland standard of 0.03 acres per person as established, and as may be amended, in the Park and Recreation System Plan. The total amount of land to be dedicated shall be calculated by multiplying the proposed number of dwelling units in each land use designation by the required acres of land to be dedicated per dwelling unit as shown below. The acres of land dedicated per dwelling unit has been determined by multiplying the parkland standard of 0.03 acres per person by the number of persons per dwelling unit, as determined by analyzing the most recent census data specific to the City of Elk River.

<u>Land Use Designation</u>	<u>Acres of land dedicated per person</u>	<u>Persons per Household</u>	<u>Acres of land dedicated per dwelling unit</u>
<u>Low Density Residential</u>	<u>0.03</u>	<u>X</u>	<u>0.0846</u>
<u>Medium Density Residential</u>	<u>0.03</u>	<u>X</u>	<u>0.0540</u>
<u>High Density Residential</u>	<u>0.03</u>	<u>X</u>	<u>0.0474</u>



(b) Specialized Housing Uses

1. Facilities providing 24 hour a day/7 day a week care, such as assisted living or nursing home facilities, shall be subject to park dedication requirements equivalent to commercial uses.
 2. Facilities with a combination of senior independent living and 24/7 care shall make the required dedication based on the number of units designated for each type of use.
- (2) Commercial and industrial uses – the amount of land to be dedicated shall be a percentage of the buildable land proposed to be subdivided. The percentage to be dedicated shall be eight (8) percent for commercial and office uses and six (6) percent for industrial uses.
- (3) Mixed uses – the amount of land to be dedicated shall be calculated based on the percentage of land area devoted to each use, except in the case of mixed use projects within the same building where the amount of land to be dedicated shall be calculated based on the percentage of square feet devoted to each use.
- ~~(b) Cash contribution in lieu of land dedication. If the city council, in its sole discretion, determines that the land proposed to be dedicated is unsuitable for parks, then the tract owner shall contribute to the city, in lieu of park land dedication, an amount of cash not to exceed the fair market value of the undeveloped land required to be dedicated, as the city council shall determine by resolution from time to time.~~
- (b) Cash contribution in lieu of land dedication. If the city council, in its sole discretion, determines that all or a portion of the land proposed to be dedicated is unsuitable for parks, then the tract owner shall contribute to the city prior to releasing the final subdivision, in lieu of park land dedication, a cash contribution proportionate to the fair market value of the land, and set forth in the city's fee schedule. If the applicant disputes the amount of the proposed cash contribution in lieu of the land dedication, the applicant, at their own expense, may obtain an appraisal of the property. The appraisal shall be made by approved members of the MAI, or equivalent real estate appraisal societies. If the city disputes such appraisal the city may, at the applicant's expense, obtain an appraisal of the property by a qualified real estate appraisal.
- ~~(c) Replatted residential property. Previously platted residential property on which park dedication has not been received by the city, being replatted with the same number of lots and the same number of dwelling units, shall be exempt from all park land dedication requirements. If the number of lots or the number of dwelling units is increased, then park dedication shall be made based on the number of additional lots or the number of additional dwelling units.~~
- (c) Buildable land. For the purposes of calculating the required dedication described in this section, shall be defined as the gross acres less the area of wetlands, lakes, and streams below the OHWL.

- ~~(d) *Replatted commercial or industrial property.* Prior platted commercial and industrial land on which park dedication has not been received by the city, being replatted with the same land area, shall be exempt from all park dedication requirements. If land area is being added to a previously recorded plat, then additional park dedication requirements shall be based on the additional land being added.~~
- (d) *Replatted property.* Previously subdivided property from which a park dedication has been received, being re-subdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of re-subdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots.
- (e) *Use of cash contributions.* Any monies paid to the city in lieu of park dedication shall be placed in a special fund and used only for the acquisition and development or improvement of ~~land for~~ parks, recreational facilities, playgrounds, trails, wetlands, ~~and public or~~ open space; ~~for the development based on the approved park systems plan.~~ Cash payments must not be used for ongoing operation or maintenance of such areas and sites; and for debt retirement in connection with land previously acquired or developed for such public purposes. Any monies specifically paid to the city for parks, recreational facilities, playgrounds, trails, shall be used only for the acquisition of land for trails and for the development of such land wetlands, or open space.
- ~~(f) *Determination of fair market value of land.* For purposes of this section, the term "fair market value of the undeveloped land" is defined as the fair market value of the land within such plat, replat, or subdivision as of the date the plat, replat, or subdivision is presented to the city council for approval of the final plat, as determined by the city in the same manner as the county assessor determines the fair market value of land for tax purposes.~~
- ~~(g) *Dedications for purposes other than parks.* In addition, in every plat, replat, or subdivision of land, the land required for public streets, regional stormwater holding ponds and wetlands shall be set aside and dedicated on the plat-subdivision by the owners to the city for these purposes. These areas will not be credited towards park dedication requirements.~~
- ~~(g) *Criteria for determining suitability of land.* The suitability of land proposed to be dedicated for park and recreational purposes shall be determined by reference to the following criteria:~~
- (1) Whether the land is reasonably located and suited for its intended use.
 - (2) Whether the land has frontage on public or private roads as determined by the city.
 - (3) Size, shape, topography, geology, hydrology, tree cover, access, and location.
 - (4) Consistency with the goals and objectives of the master park and recreation plan.
- ~~(h) *Improvements to dedicated land.* As part of the subdivision or plat approval, the tract owner shall be responsible for making certain improvements to land dedicated for park, trail and public open space purposes, including, but not limited to, finish grading, ground cover, construction of trails and clearly identifying park and trail boundaries with city-approved markers.~~

- (j) *Credit for construction of recreational facilities.* Park dedication credit shall not be granted for the construction of recreational facilities unless specifically approved by the city council. The submission for review by staff and the park and recreation commission shall include an estimate of installation costs, equipment specifications and a site plan. The park and recreation commission shall review such improvements for appropriateness with the park and trail master plan.
- (k) *Consultation by developer with city staff.* As part of the application procedure at the time of submitting the ~~preliminary plat subdivision~~, the tract owner is encouraged to confer with city staff and the park and recreation commission to secure a recommendation as to the location of any property that should be dedicated to the public for park and recreation purposes.
- (l) *Survey required.* As part of any park dedication of land, a survey at a scale of one inch equals 50 feet shall be provided with topographic data, based on city datum, including contours at vertical intervals of at least two feet, watercourses, wetlands, marshes, rock outcrops, easements, utilities and vegetative data. This data shall also be provided in a format which is readable by Arc View™ GIS. Portions of any property dedicated to the public for park and recreation purposes to be used for borrow and fill activities elsewhere in the development shall be clearly identified.

SECTION 2. That this ordinance shall take effect upon adoption and be published as provided by law.

Passed and adopted by the City Council of the City of Elk River this 5th day of July, 2016.

John J. Dietz, Mayor

ATTEST:

Tina Allard, City Clerk

