



## Legislation Text

**File #:** Ord 15-27, **Version:** 1

Amending Chapters 61, 63, and 69 of the Saint Paul Legislative Code pertaining to Parkland Dedication. WHEREAS, MN Stat. § 462.358, Subd. 2b, *Dedication*, states that municipal subdivision "regulations may require that a reasonable portion... of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers,...storm water drainage and holding areas ponds,... parks, recreation facilities,...playgrounds, trails, wetlands, or open space" provided that "the municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision;" and

WHEREAS, in 2011, the Planning Commission initiated a zoning study to consider the following amendments to parkland dedication requirements originally adopted by the City Council on March 28, 2007:

1. An amendment to § 69.511 to base the amount of required parkland dedication at the time of platting just on the total acreage of new lots being created for new residential, commercial, or industrial development that would create a need for additional parkland, and not on lots for which the use would be unchanged or for something that would not create a need for additional parkland, bringing the text of this code requirement into greater conformance with state and federal law, consistent with City Council variance decisions; and
2. Amendments to decouple the parkland dedication requirement at the time of building permits from parking, and replace it with different measures of density and intensity of use that are always known, easy to track, and would result in a roughly similar amount of parkland dedication so that even if a development has no parking there would still be a parkland dedication requirement, and so that the requirement is proportionate to the need for parkland created by the development as required by state law; and

WHEREAS, in 2013, the state legislature enacted legislation 2013 Minn. Laws chap. 85, art. 5, Sec. 44. allowing the city of Saint Paul to also "require that a reasonable portion of land be dedicated to the public or impose a dedication fee in conjunction with the construction permits required for new housing units and new commercial and industrial development in the city,...for public parks, playgrounds, recreational facilities, wetlands, trails, or open space;" and

WHEREAS, after the 2013 legislation, on January 16, 2014, the Planning Commission amended the study to remove existing language pertaining to parkland dedication requirements at the time of building permits, and to replace it reasonable land dedication or fees for parks at the time of building permits that may be unrelated to any new subdivision, based on the enactment of 2013 Minn. Laws chap. 85, art. 5, Sec. 44; and

WHEREAS, on January 16, 2015, the Planning Commission duly conducted a public hearing on the draft Parkland Dedication Amendments, where all persons present were afforded an opportunity to testify concerning the draft ordinance.

WHEREAS, the Comprehensive Planning Committee made revisions to the recommended zoning code revisions based on public testimony and forwarded the same to the full Planning Commission.

WHEREAS, on April 24, 2015, the Planning Commission forwarded to the City Council for review and adoption, its recommendation for amendments to the zoning code pertaining parkland dedication at the time of platting and building permits together with a memorandum from its Comprehensive Planning Committee which contained their recommendations and rationale for the proposed text amendments. The Council hereby adopts these recommendations by the Planning Commission and the Commission's Comprehensive Planning Committee as contemporaneous statements of reasons for the enactment of this ordinance and incorporates them herein by reference for the express purpose of demonstrating a rational basis for the enactment of this ordinance together with any other record or testimony regarding the same that is received by the City Council;and

WHEREAS, on July 15, 2015, the City Council held a public hearing on the Parkland Dedication Amendments,

where all persons present were afforded an opportunity to testify concerning the draft ordinance.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

That Chapter 61. Zoning Code--Administration and Enforcement of the Saint Paul Legislative Code is hereby amended by revising section 61.302(b)(1)(b) and adding of the following new section 61.402(b)(6) to read as follows:

**Sec. 61.302. Application forms and fees.**

b. Fee schedule. Fees for the following zoning control applications shall be as follows:

1. Site plan review:

(b) Five hundred dollars (\$500.00) up to ten thousand (10,000) square feet of land and two hundred dollars (\$200.00) for each additional ten thousand (10,000) square feet of land for all other uses, and an additional fee of two hundred sixty dollars (\$260.00) for sites on steep slopes or in the river corridor or tree preservation overlay districts. For any site plan for which a travel demand management plan is required, there is an additional fee of four hundred fifty dollars (\$450.00). For any site plan for which parkland dedication is required, there is an additional fee of five (5) percent of the parkland dedication fee up to one hundred dollars (\$100.00).

**Sec. 61.402. Site plan review by the planning commission.**

(b) *Site plan application:*

(6) Pre-application consultation. A pre-application consultation shall be held for residential, commercial, or industrial development on sites greater than 10 acres in area, abutting existing public parkland, without a park within a one-half (1/2) mile radius of the site, or within one-quarter (1/4) mile of the Green Line adopted station area plans to discuss parkland dedication requirements and options. Development on land that has been platted within two (2) years or for which parkland has been dedicated as part of platting shall be exempt from this requirement.

SECTION 2

That Section 63 of the Saint Paul Legislative Code is hereby amended by the adding of the following new section Article VII. 63.700 entitled Parkland Dedication to read as follows:

ARTICLE VII. 63.700 PARKLAND DEDICATION

**Sec. 63.701. Parkland dedication requirements.**

Pursuant to Laws of Minnesota 2013, Chapter 85, Section 44, for development that increases the number of residential dwelling units and/or increases the floor area of commercial and/or industrial buildings on a parcel of land, a reasonable portion of the buildable land, proportionate to the additional need for parks created by the development, may be required to be conveyed, or a fee in lieu of land shall be paid, on a one time basis, prior to the issuance of building permits, for public use for neighborhood- and community-scale parks, as defined in adopted city plans, playgrounds, recreation facilities, trails, wetlands, or open space needed as a result of the development, based on the following standards. Land conveyed or dedicated for this purpose shall be in close proximity to the development, and the conveyance of land shall be subject to agreement by the city council and the developer. Without such agreement, a parkland dedication fee shall be paid in lieu of the land.

(a) Residential development: For an increase in the number of residential dwelling units on a parcel of

land, the amount of land conveyed or dedicated for this purpose shall be one hundred fifty (150) square feet per additional dwelling unit, to a maximum of 4.5% of the buildable land, and the fee in lieu of land shall be twelve hundred dollars (\$1,200) per additional dwelling unit, to a maximum of 4.5% of the county assessor's estimated market value of the land on which the development is built.

(b) *Commercial and industrial development:* For an increase or change in use of gross floor area for commercial and/or industrial use on a parcel of land, the amount of land conveyed or dedicated for this purpose shall be based on the additional floor area and/or change in use as follows, to a maximum of 0.5% of the buildable land, and the fee in lieu of land shall be the county assessor's estimated market value of the land that would otherwise be conveyed or dedicated, to a maximum of 0.5% of the county assessor's estimated market value of the land on which the development is built. An increase or change in use of less than five thousand (5,000) square feet of gross floor area for commercial use, less than twelve thousand five hundred (12,500) square feet of gross floor area for industrial use, and less than twenty five thousand (25,000) square feet of gross floor area for wholesale, warehousing and storage use, shall be exempt from this requirement.

Table 63.701. Parkland Dedication for Commercial and Industrial Development

<u>Land Use</u>	<u>Parkland Dedication Requirement</u>
<u>Commercial</u>	<u>28 square feet per 1,000 square feet of GFA</u>
<u>Industrial</u>	<u>11 square feet per 1,000 square feet of GFA</u>
<u>Wholesale, Warehousing &amp; Storage</u>	<u>6 square feet per 1,000 square feet of GFA</u>

(c) *For mixed residential and commercial/industrial development* that increases the number of residential dwelling units and/or increases the floor area of commercial and/or industrial buildings on a parcel of land, the amount of land conveyed or dedicated for this purpose shall be the sum of the amount for each use based on the standards in (a) and (b) above, to a maximum of 4.5% of the buildable land, and the fee in lieu of land shall be the sum of the fee in lieu for each use based on the standards in (a) and (b) above, to a maximum of 4.5% of the county assessor's estimated market value of the land on which the development is built.

(d) Buildings removed from the site prior to January 1, 2000, shall not be considered in the parkland dedication calculation.

(e) *Reduced parkland dedication fee for affordable housing.* For dwelling units required to be affordable under Saint Paul Housing and Redevelopment Authority or other similar financing agreements, or other contractual agreement with the city, the parkland dedication fee otherwise required shall be multiplied by the specified percentage of Twin Cities area median income at which the dwelling unit is required to be affordable.

(f) The city council shall determine the amount, location, and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the criteria identified in Sec. 69.511(a) 1-10 of this code.

(g) *One-time basis of parkland dedication requirements.* Once the maximum parkland dedication requirement under this section has been conveyed through the dedication of land or the payment of a dedication fee, there shall be no further parkland dedication requirement at the time of building permits. Should the property change uses from a use with a lower maximum dedication requirement to that with a higher maximum dedication requirement, the maximum dedication requirement for the new development shall be the difference between the higher and lower maximum dedication requirement.

**Sec. 63.702. Parkland dedication option; private land maintained for public use.**

The city council may, at its discretion, waive all or a portion of the land or cash dedication required under section 63.701 and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreation facilities, wetlands, trails, or open space subject to the following

conditions:

- (a) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, trails, open space, or conservation purposes must at least equal that otherwise required under section 63.701.
- (b) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.
- (c) The city council must find, after recommendation of the director of parks and recreation and the parks commission, that such land and improvements will serve the purposes listed in section 63.701.
- (d) The city and the owners or developers of the land must have executed a parkland development agreement insuring that specified land shall be developed and maintained by the owners or developers, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in section 63.701. The owners or developers must include a covenant running with the specified land indicating that the land to be developed and maintained for the purposes listed in section 63.701 will revert to the city in the event of a failure to comply with this requirement. When a recordable covenant concerning the ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval. Such covenant shall be recorded prior to obtaining building permits for the development.

**Sec. 63.703. Parkland dedication conveyance standards.**

Prior to conveyance of the property to the city, the owners or developers shall provide the city with an acceptable deed of all land dedicated for park purposes, evidencing good and marketable title without liens or encumbrances of any kind except those that the city council has approved. The foregoing deed shall otherwise evidence good and marketable title free and clear of any mortgages, liens, encumbrances, assessments and taxes. The landowner shall record all deeds for conveyance of the property to the city prior to receiving building permits for the development.

**Sec. 63.704. Parkland dedication; parkland development special fund.**

There is hereby established a parkland development special fund. All parkland dedication fees collected pursuant to this article shall be deposited in the parkland development special fund and used solely for the acquisition, development, or improvement of public parks, playgrounds, recreation facilities, wetlands, trails, or open space within the city. Funds collected shall be used for the aforementioned purposes within one-half (1/2) mile of the project for which the funds were collected or for the neighborhood or community park nearest to the project. Use of the funds collected shall be documented and made publically available in an annual report. Such funds may not be used for ongoing operations or maintenance. All fund expenditures shall be approved by the city council by resolution. Expenditures from the parkland development special fund shall be in conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city. Payments made to satisfy the requirements of this section shall be made separately from any payments for building permits or any other payment to the city.

SECTION 3

Section 69 of the Saint Paul Legislative Code is hereby amended to read as follows:

**Sec. 69.511. Parkland dedication requirements.**

(a) *Parkland dedication requirements at the time of platting.* Pursuant to Minn. Stat. Sec. 462.358, Subd. 2, as amended and as otherwise provided below, for platting of land for residential, commercial, or industrial development, the property owners, subdividers or developers shall dedicate two (2) percent of the total acreage of the plat a reasonable portion of the buildable land may be required to be dedicated or conveyed to the city on a one time basis, prior to or at the same time as recording the final plat, for the purposes listed in subdivision (a) of this section public use for parks, playgrounds, recreation facilities, trails, wetlands, or open space needed as a result of the plat, to a maximum of nine (9) percent of the total acreage of new lots that are being created for new residential or mixed-use development and to a maximum of four (4) percent of the total acreage of new lots that are being created for new commercial or

industrial development. Land so dedicated shall be within the plat and/or, subject to agreement by the city council and the subdividers, in close proximity to the plat.

~~(a) Generally.~~ Pursuant to Minn. Stat. Sec. 462.358, Subd. 2, as amended and as otherwise provided below, for subdivision and development of land, the owners, subdividers, or developers of the land shall convey to the city or dedicate to the public use a reasonable portion of the land for public use for parks, playgrounds, trails, open space, or conservation purposes. The city council shall determine the amount, location, and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the following criteria:

- ~~(18)~~ The parkland standards in Sec. 63.702 for future development of the plat, and whether the development Priority will be given to areas that are under-served by parks due to distance to existing parks, population density, or inadequate size of existing nearby parks;
- ~~(24)~~ Conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city, and ; ~~(2)~~ areas identified for park or open space conservation purposes in an adopted city, regional, state, or national plan;
- (3) Areas that connect existing components of the open space network;
- (4) Areas adjacent to existing public parks, trails, or open space;
- (5) Areas representing significant landforms, native plant communities, sensitive habitat, or historical events;
- (6) Areas containing vegetation identified as endangered or threatened, or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 U.S.C. §1531 et. seq. or Minn. Stat. § 84.0895, and rules adopted under these respective laws;
- (7) Availability and commitment of resources, public and/or private, to develop, operate, and maintain the new park land;
- ~~(89)~~ Land to be dedicated shall be large enough for its intended purpose;
- ~~(94)~~ Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted;
- ~~(104)~~ Dedicated land shall be accessible to the public served unless the city council determines that the dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

(b) One-time basis of parkland dedication requirements. Once parkland has been dedicated or conveyed to the city under this section to meet the needs for parkland created by the plat, there shall be no further parkland dedication requirement under Sec. 63.701 at the time of building permits. If the property is later re-platted, or if a requirement for parkland dedication or a fee in lieu has previously been imposed at the time of building permits, the amount of parkland to be dedicated shall be based on the area of new lots and additional development for which parkland dedication or a fee in lieu has not previously been required. Residential/mixed-use projects having previously dedicated land or paid a fee in lieu of land at the time of platting prior to the effective date of this section shall be required to pay the parkland dedication fee at the time of building permits under Sec. 63.701 less the prorated value of the land dedicated or the fee in lieu of land paid at the time of platting.

~~(c) Parkland dedication option; land and/or cash dedication.~~ At the discretion of the city council, the owners, subdividers, or developers of property subject to this section shall contribute an amount of cash, prior to obtaining the city clerk's signature on the final plat, in lieu of all or a portion of the land required under subdivisions (a) and (b) of this section or an equivalent value of improvements as approved by the city council. The amount of cash shall be based upon the county assessor's estimated market value of the total acreage of the plat, at the time of city council approval of the plat, multiplied by one-third of the percentage of the land that would otherwise be dedicated. In determining whether land dedication or cash in lieu thereof will be required, the city council shall consider without limitation the suitability and adaptability of land within the site for the purposes listed in subdivision (a) of this section and criteria for land dedication in subdivision (a) of this section.

~~(d) Parkland dedication at the time of building permits.~~ For new residential units, commercial or industrial development, the property owners, subdividers or developers shall dedicate land or cash in lieu of land, on a one time basis, for the purposes listed in subdivision (a) of this section based on the number of

~~additional accessory off-street parking spaces, and conversion of existing commercial/industrial accessory parking to residential spaces, for the development. For residential development, the amount of land shall be one hundred (100) square feet per surface parking space and fifty (50) square feet per parking space within a structure, to a maximum of seven (7) percent of the total land area of the property. For commercial and industrial development, the amount of land shall be thirty (30) square feet per surface parking space and fifteen (15) square feet per parking space within a structure, to a maximum of two (2) percent of the property. Land so dedicated shall be within or in close proximity to the development. The amount of cash in lieu of land shall be based upon the county assessor's estimated market value of the parcel of land per square foot, multiplied by one-third of the square feet of land that would otherwise be dedicated. For parking spaces for dwelling units required to be affordable under Saint Paul Housing and Redevelopment Authority or other similar financing agreements, or other contractual agreement with the city, the amount of cash otherwise required shall be multiplied by the specified percentage of Twin Cities area median income at which the unit is required to be affordable. The city council may require the land dedication option under this subdivision (d) as a condition of plat approval, and in so doing may require that the land be dedicated prior to or at the same time as recording the final plat. In all other cases, the dedication of land or cash in lieu of land required under this subdivision (d) shall be done prior to obtaining building permits for development to which the parking spaces are accessory, and the dedication of land shall be subject to agreement by the city council and the owners, subdividers or developers; without such agreement, cash shall be paid in lieu of land dedication.~~

~~(ce) Parkland dedication option; private land maintained for public use.~~ The city council may, at its discretion, waive all or a portion of the land or cash dedication required under subdivisions (b), (c) or (d) (a) of this section and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreation facilities, wetlands, trails, or open space, or conservation purposes within the proposed plat, subject to the following conditions:

- (1) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, trails, open space, or conservation purposes must at least equal that required under this ordinance.
- (2) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.
- (3) The city council must find, after recommendation of the director of parks and recreation and the parks commission, that such land and improvements will serve the purposes listed in subdivision (a) of this section; ~~and.~~
- (4) The city and the owners, subdividers, or developers of the land must have executed a parkland development agreement insuring that specified land shall be developed and maintained by the owners, subdividers, or developers, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in subdivision (a) of this section. The owners, subdividers, or developers must include a covenant running with the specified land indicating that the land to be developed and maintained for the purposes listed in subdivision (a) will revert to the city in the event of a failure to comply with this requirement. When a recordable covenant concerning the ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval. Such covenant shall be recorded prior to or at the same time as the final plat when related to requirements under subdivision (a) of this section, ~~and prior to obtaining building permits when related to requirements under subdivision (d) of this section.~~

~~(df) Parkland dedication; conveyance standards.~~ Prior to dedication and conveyance of the required property to the city, the owners, subdividers or developers shall provide the city with an acceptable abstract of title or registered property abstract for all land dedicated for park purposes, evidencing good and marketable title without liens or encumbrances of any kind except those encumbrances which the city council has approved or required in connection with the proposed plat. The foregoing abstracts shall otherwise evidence good and marketable title free and clear of any mortgages, liens, encumbrances, assessments and taxes. For any dedication of land required under subdivision (a) of this section that is not formally dedicated to the city with the final plat, the landowner shall record all deeds for conveyance of

the property to the city prior to or at the same time as recording the final plat. For any dedication of land required under subdivision (d) of this section, the landowner shall record all deeds for conveyance of the property to the city prior to obtaining building permits for the development.

~~(g) *Parkland dedication; parkland development special fund created.* There is hereby established a parkland development special fund. All funds collected pursuant to the parkland dedication process shall be deposited in the parkland development special fund and used solely for the acquisition and development or improvement of lands dedicated for public use for parks, playgrounds, trails, open space, or conservation purposes in the planning district of the subdivision or development for which the funds were collected, or in an adjacent planning district within one-half mile of the subdivision or development. Such funds may not be used for ongoing operations or maintenance. All fund expenditures shall be approved by the city council upon recommendation of the director of parks and recreation in consultation with the parks and recreation commission. Expenditures from the parkland development special fund shall be in conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city, and shall be consistent with other applicable criteria in subdivision (a) of this section. Payments made to satisfy the requirements of this section shall be made separately from any payments for building permits or any other payment.~~

#### SECTION 4

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.