

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE XV LAND USAGE, CHAPTER 157 UNIFIED DEVELOPMENT CODE, SUBCHAPTER 14 PARKLAND STANDARDS, RELATING TO CREDIT FOR PRIVATE PARK AREA AND AMENITIES AND MAKING OTHER ADMINISTRATIVE REVISIONS; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING SEVERABILITY AND REPEALER CLAUSES; PROVIDING FOR A PENALTY FOR A VIOLATION OF CHAPTER 157, SUBCHAPTER 14 AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$2,000; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council approved the Unified Development Code on February 24, 2015, which replaced, in its entirety, the Unified Development Code adopted on September 8, 2009; and

**WHEREAS**, the City Council has determined that it is necessary to update and amend the Unified Development Code from time to time to ensure the realization of its stated purposes and its compliance with applicable State law; and

**WHEREAS**, the Planning and Zoning Commission held a public hearing on August 5, 2019, and voted affirmatively in recommending approval of the proposed Unified Development Code amendments contained herein through its final report and recommendation to City Council with a vote of 5 - 0; and

**WHEREAS**, the City Council has determined that the clarification of private park area and amenities credited towards satisfying the public parkland dedication and Park Development Fee requirements and making other administrative revisions to Subchapter 14, Parkland Standards, of the Unified Development Code is necessary and prudent; and

**WHEREAS**, the City has complied with all conditions precedent necessary to take this action, has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:**

**Section I. Findings.**

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

## **Section II.**

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending Chapter 157, Subchapter 14, Parkland Standards in its entirety to read as amended in Exhibit A, attached hereto and incorporated herein for all purposes.

## **Section III.**

Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

## **Section IV.**

Repealer.

This ordinance shall be cumulative of all other ordinances, resolutions or acts of the City of Pflugerville, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Pflugerville except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

## **Section V.**

Penalty.

That a violation of this Ordinance shall be an offense punishable upon conviction as prescribed in Subchapter 1, Chapter 157 of this Code of Ordinances.

## **Section VI.**

Effective Date.

This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF PFLUGERVILLE, TEXAS

By: \_\_\_\_\_  
Victor Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Karen Thompson, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Charles E. Zech, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

EXHIBIT A  
SUBCHAPTER 14. PARKLAND STANDARDS

## Subchapter 14. Public Parkland and Open Space Standards

<b>Section</b>	<b>Title</b>
<b>14.1</b>	<b>Purpose</b>
<b>14.2</b>	<b>Scope</b>
<b>14.3</b>	<b>Public Parkland Dedication Requirements</b>
14.3.1	General
14.3.2	Calculation <a href="#">of Parkland Dedication Requirement</a>
14.3.3	Phasing
14.3.4	<del>Applicant's</del> <a href="#">Developer's</a> Warranty
14.3.5	Criteria for Public Parkland Dedication <ul style="list-style-type: none"><li>A. Size, Dimensions and Access</li><li>B. Location</li><li>C. Character</li><li>D. Unsuitable Land</li><li>E. Utilities</li><li>F. Survey Corner Markers</li><li>G. Sidewalks</li><li>H. Trails</li><li>I. Waiver</li></ul>
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14.5.4	Construction of Private Amenities in Private Parks - <a href="#">Criteria for Approval</a>
14.5.5	Combination <del>of Alternative Compliance</del> <a href="#">Public Parkland and Construction of Public Amenities</a>
<b>14.6</b>	<b>Payments</b>
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<b>14.7</b>	<b>Review Process</b>
14.7.1	Authority
14.7.2	Preliminary Plan

- 14.7.3 Final Plat
- 14.7.4 Conveyance of Public Parkland by Deed
- 14.7.5 Alternative Compliance – Construction of Public Amenities

## **14.8 Decision Making; Appeal Process**

## SUBCHAPTER 14. PARKLAND AND OPEN SPACE STANDARDS

### 14.1 PURPOSE

The purpose of this subchapter is to:

- A. ~~Intended to ensure~~ Ensure the City creates a comprehensive network of trails that provides links to parks, homes, schools, and community facilities and to ensure multi-modal access throughout the City and its extraterritorial jurisdiction.
- B. Provide for pedestrian corridors with the integration of hike and bike trails within floodplain areas.
- C. Preserve environmentally sensitive and ecologically diverse areas.
- D. Maintain and achieve a contiguous hierarchy of public parks and facilities, open space, and hike and bike trails that serve the recreational needs of all residents, employees, and visitors to the City of Pflugerville.
- E. Establish public parkland design and physical characteristic policies consistent with the Parks, Recreation and Open Space Master Plan.
- F. Establish policies for the conveyance of public parkland.
- G. ~~In order to serve a diverse demographic and an expanding population,~~ focus on the development of public community parks that ultimately serves the population equitably in order to serve a diverse demographic and expanding population.
- H. Expand the community and regional park system.
- I. Maintain, enhance or exceed existing level of service in accordance with the City's Parks, Recreation, and Open Space Master Plan.

### 14.2 SCOPE

#### 14.2.1 This Subchapter shall apply to the following:

- A. Residential subdivisions within the City Limits; and
- B. Residential subdivisions within the City's extra-territorial jurisdiction (ETJ), subject to the following:

~~Whenever the residential subdivision is also subject to County regulations that include parkland and open space standards the most stringent standards, whether it is the City's or County's, shall apply; and~~

Whenever ~~the~~ a residential subdivision is also subject to regulations by ~~the~~ a County or ~~and~~ a special district, or both, ~~(including but not limited to municipal utility districts)~~ and such regulations include parkland and open space standards, the most stringent standards, whether ~~it is~~ the City's, the County's, or the special district's requirements, shall apply.

### 14.3 PUBLIC PARKLAND DEDICATION REQUIREMENTS

#### 14.3.1 General

Unless a Developer pays the Parkland Fee in-lieu in accordance with Section 14.5.2, a Developer shall dedicate and convey ~~P~~public parkland ~~shall be dedicated and conveyed~~

to the City for residential subdivisions in accordance with the Parks, Recreation, and Open Space Master Plan, and the provisions stated herein; ~~as applicable. Only the City Manager may accept~~ The acceptance of any conveyance or dedication of parkland offered to the City pursuant to this Subchapter. ~~must be first approved by the City Council and the prior approval~~ The acceptance of any conveyance or dedication of any of parkland by a department head, board, or commission of such conveyance or dedication shall is not ~~be~~ binding on the City ~~Council~~. Furthermore, the dedication and conveyance of public parkland is not final until the Developer has complied with this Subchapter.

#### 14.3.2 Calculation of Parkland Dedication Requirement

- A. The amount of land required to be dedicated for parkland ~~shall~~will be calculated at a rate of not less than six and six-tenths (6.6) acres of parkland per 1,000 ultimate residents or an equivalent ratio thereof. The required acreage shall be rounded to the nearest one tenth. The following formula shall be used to determine the amount of parkland to be dedicated:

$$\frac{6.6 \times (\text{Number of Units}) \times (\text{Persons Per } \text{Units})}{1000} = \text{Acres to be dedicated}$$

- B. The number of persons per unit shall be based on data compiled by the ~~eCity~~. The City ~~and shall be reviewed~~ and adjusted the data as necessary. The following figures represent the average number of persons per unit by current density categories, and shall be used to calculate parkland dedication:

Table 14.3.2 Persons per Unit	
Gross Density per Residential Development (Dwelling Units per Acre)	Persons per Unit
From 0 to 6	3.0
Over 6 to 10	2.7
Over 10 to 25	2
More than 25	2*
* For high density residential development above 25 dwelling units per acre, the developer may provide a demographic study to provide proof that the occupancy rate of the development averages less than 2 persons per unit. In such event, the Administrator is authorized to reduce the gross density/persons per unit ratio <u>to a minimum of 1.75 persons per unit.</u>	

- C. Unless the density of multi-family or condominium developments is identified on the permit application submitted in accordance with ~~subject to~~ this Subchapter, it shall be assumed that the highest density authorized under this ~~Chapter~~code is the development's density unless the applicant provides by plat note, or other binding written memorialization acceptable to the Administrator, the project's maximum actual density ~~that the project shall not exceed~~.



- D. When an area of less than three (3) acres is required to be dedicated as public parkland, the ~~e~~City, at its discretion, may elect to accept the land offered for dedication and conveyance or require a fee in-lieu of public parkland as alternative compliance in accordance with Section 14.5.

### 14.3.3 Phasing

Dedication of public parkland is required to be identified on a preliminary plan for residential development. Dedication and conveyance of public parkland may be provided in phases in accordance with the approved preliminary plan; provided that the dedication for each phase meets or exceeds the parkland dedication requirements of this Subchapter for that phase of development. The Administrator is authorized to allow phasing of parkland dedication below the requirement for each phase of development if the Administrator finds the proposed phasing of parkland dedication of the ultimate dedication meets or exceeds the requirements of this ~~S~~subchapter and provides a more effective means of parkland dedication than would have otherwise been provided through the standard phasing of dedication.

### 14.3.4 ~~Developer~~Applicant's warranty

- A. Prior to the City accepting the dedication and conveyance of any public parkland, the Developer~~Applicant~~ shall warrant in writing that ~~any~~the land to be dedicated to the City as public parkland ~~under this subchapter shall~~is:
1. ~~Be f~~Free of fill material; unless the Parks and Recreation Director and the City Engineer approve of the placement of fill material in writing~~is found to be beneficial to the parkland by the Director of Parks and Recreation and approved in writing by the Director of Parks and Recreation and the City Engineer; and~~
  2. ~~Be f~~Free of construction debris or other refuse on the land; and
  3. ~~Be f~~Free of any physical disturbance, including ~~but not limited to~~soil excavation, site ~~grading,~~ or removal or damage to vegetation, ~~or other physically disturb the site;~~ unless the Parks and Recreation Director and the City Engineer approve of such physical such disturbance in writing~~is authorized in writing by the Director of the Parks and Recreation and the City Engineer.~~
  4. ~~Be f~~Free of any easements or other dedications, encumbrances ~~or,~~ restrictions, or title defects not approved in writing by the Administrator; and
  5. ~~Be f~~Free of ~~any~~ll hazardous substances and ~~or~~ underground storage tanks (U.S.T.'s).
- B. The City ~~shall~~reserves the right to refuse acceptance of any land that the City finds to be not in conformance with the purposes or other requirements of this Subchapter.
- C. The Developer shall complete all public improvements (e.g. utility extensions, sidewalks, trails, streetyard trees with irrigation systems) within the parkland or post fiscal security in the amount of 110 percent of the estimated cost of the public improvements prior to dedication or conveyance of the parkland. The form of the fiscal security shall be approved by the Administrator.

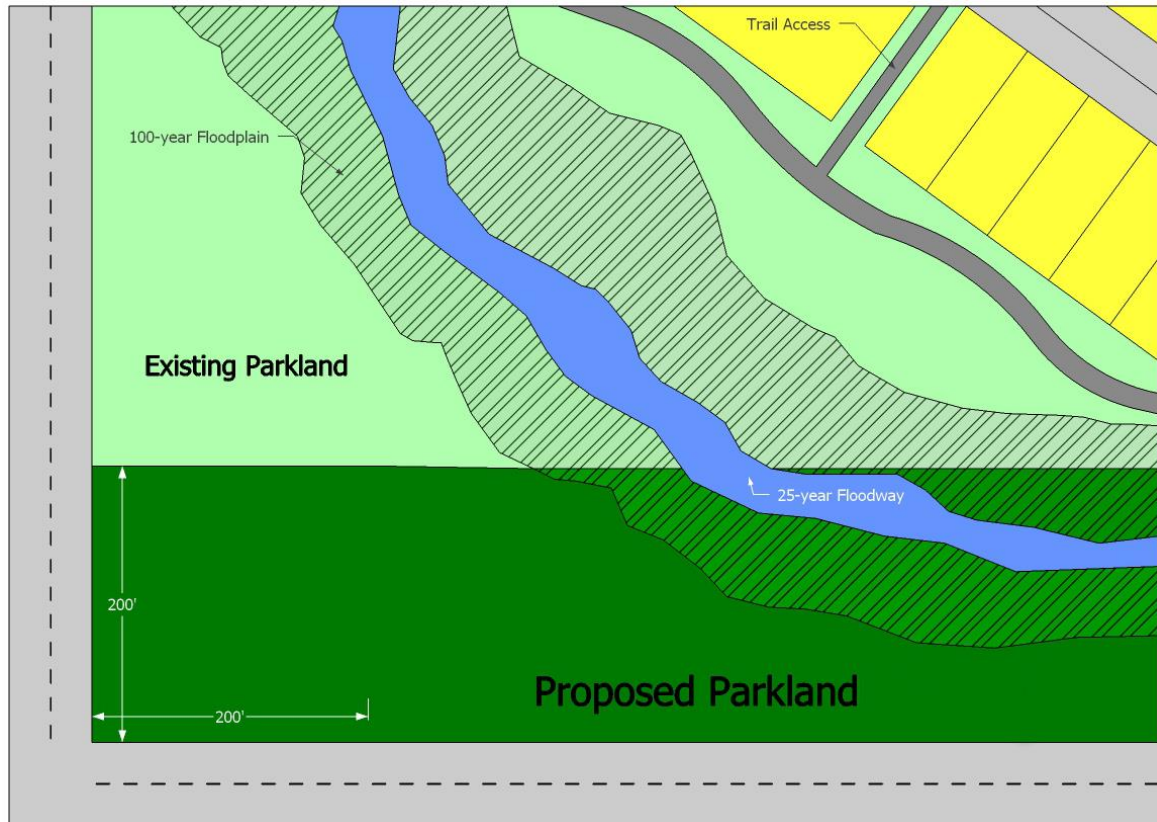
- ~~1. Be subject to providing applicant with waiver for claim for injury during such inspection and assurance that any disturbance to applicant's land during such inspection is restored, have the right to inspect the land to verify compliance with the warranties required in this subsection; and~~
- ~~2. Have the right refuse acceptance of any land that the City finds to be in violation of the warranties required in this subsection.~~

#### 14.3.5 Criteria for public parkland dedication

In order to ensure proper design and location of public parkland, the Developer's dedication ~~or~~ and conveyance of public parkland shall conform to the following criteria for size, dimension, ~~location~~, access, location and character.

##### A. Size, Dimensions and Access.

1. Parkland s Shall be a minimum of three (3) contiguous acres. Public parkland dedication within the floodplain may receive no more than ~~with no more than~~ fifty percent (50% ~~percent~~) credit towards satisfying ~~located within the 100-year floodplain~~ the minimum parkland dedication requirements. However, the City may accept portions of the land located in the 100-year floodplain regardless of size.
2. Parkland s Shall have minimum lot dimensions of 200 feet in length and 200 feet in depth fronting a public street right-of-way located outside of the 100-year floodplain, unless it is contiguous to existing public parkland that has at least 200 feet of right-of-way frontage. However, if the public parkland lot abuts public right-of-way on all property lines, the minimum lot dimensions shall be 250 feet in length by 250 feet in width.
3. Park entrances shall be located along collector or higher classification roadways.
4. Adequate vehicular access shall be provided for parkland operation and maintenance. For public parkland areas not fronting a public street right-of-way or backsing up to single-family and duplex residential properties, an access lot encumbered by a public access easement containing a trail connection, not less than thirty (30') feet in width, shall be dedicated and conveyed ~~provided~~ to connect to the public parkland a minimum of every 1,000 linear feet along the public street. The access lot shall be owned and maintained by a ~~the~~ home owner's association.



B. Location.

1. Parkland s shall be located, whenever possible, adjacent to and contiguous with existing public parkland.
2. Parkland s shall be located, whenever possible, adjacent to and contiguous with school sites in order to maximize the use of common facilities and functions.
3. Parkland s shall be land that is identified as moderate to high priority for preservation based on the "Travis County Greenprint" included within the Parks, Recreation, and Open Space Master Plan.
4. Parkland s shall be land that is identified as moderate to the most environmentally sensitive on the "Land Sensitivity Map" included within the Parks, Recreation, and Open Space Master Plan.
5. If the entire 100-year floodplain within a site is dedicated to the City, parkland credit will be given for one-half the area within the dedicated 100-year floodplain. No parkland credit may be given for the area encompassing the regulatory floodway. Notwithstanding the ~~provisions stated above~~ foregoing, creditable parkland within the 100-year floodplain may not exceed 50% of the total number of acres required for public parkland dedication.
6. If the proposed public parkland dedication is not within or contiguous to the Developer's proposed residential subdivision, the proposed public parkland shall be located within one-half (1/2) mile radius from the subdivision, whereby the Parks and Recreation Commission shall make a recommendation to ~~City Council~~ the Planning and Zoning Commission for approval.

C. Character.

The character or physical attributes of proposed public parkland dedication shall be conducive to the following:

1. Preserving critical environmental habitat, and high quality soil resource areas;
2. Providing land suitable for development of recreational facilities;
3. Creating a pedestrian corridors with the integration of hike and bike trails within the creeks per the Transportation Master Plan and Trails Master Plan;
4. Maintaining, enhancing or exceeding existing level of service in accordance with the Parks, Recreation, and Open Space Master Plan;
5. Preserving Sites with protected trees;
6. Preserving Places of historical significance; and
7. Consisting of Land relatively undisturbed by grading or compaction.

D. Unsuitable Land.

The following physical land characteristics are considered unsuitable for public parkland dedication unless the Parks and Recreation Director finds that the land has recreational value that warrants its acceptance as public parkland or open space and is consistent with the Parks, Recreation, and Open Space Master Plan.

1. Drainage ditches;
2. Detention ponds;
3. Lakes or retention ponds;
4. Narrow strips of land, except within the pedestrian corridors identified in the Transportation Master Plan and the Parks and Open Space Master Plan;
5. Steep slopes equal to and greater than 15% grade, except within the regulatory floodplain;
6. ~~Any Easements, including but not limited to, utility easements and drainage easements~~ that may restrict the City's surface use and limit the ability to construct park improvements upon the land;
7. Land containing environmental hazards as indicated by a phase one environmental assessment, ~~which that~~ meets the current American Society of Testing and Materials Standards (ASTM);
8. Entry subdivision features, areas devoted to decorative landscaping, traffic islands, street medians, and areas following development perimeter walls;
9. Land with reservation of mineral rights owned by a private entity or land used for mining, oil or gas wells; unless a surface rights waiver, of suitable legal form approved by the City Attorney, is provided; or
10. Land containing debris and trash due to construction related activities.

E. Utilities.

Through the subdivision or site development process, public utility and electric service infrastructure shall be extended to and through the parkland in accordance with the Engineering Design ~~Guidelines Manual, and~~ the Water Master Plan, and the Wastewater Master Plan.

F. Survey corner markers.

The ~~applicant~~ Developer shall ~~be obligated to have place~~ survey corner markers placed at all corners of the parkland, ~~as which has been~~ located by a licensed and professional surveyor. The markers ~~will~~ shall be four (4) inch diameter PVC pipe recessed twelve (12) inches in the ground. ~~They will~~ and shall contain a 1/2-inch iron pipe or rebar ~~and be~~ filled with concrete flush with ground, as necessary for perpetual location.

- G. Sidewalks.  
Public sidewalks ~~are~~ shall be required along ~~all the~~ street frontage and shall be constructed ~~at~~ a minimum of six (6') feet in width.
- H. Trails.  
Trails are required in accordance with Subchapter 10 of the UDC. ~~and~~ I the Trails Master Plan ~~may~~ shall not receive credit for the Park Development Fee.
- I. Waiver.  
The Parks and Recreation Director is authorized to grant waivers from the requirements of this ~~sub~~Section 14.3.5, provided that the proposed non-conforming public parkland meets the intent of the Code and the City's Parks, Recreation, and Open Space Master Plan. (5) subject to the following:
- ~~1. The waiver request must be in writing; and~~
  - ~~2. The request shall not be contrary to the public interest; and~~
  - ~~3. Due to special conditions, a literal enforcement of the ordinance would result in an unnecessary hardship; and~~

~~The spirit of the ordinance is observed and substantial justice is done.~~

#### 14.3.6 Conveyance Requirements

Public parkland shall be dedicated as public parkland by plat and ultimately conveyed by general or special warranty deed, as approved by the Administrator. The Developer shall provide ~~with~~ acceptable evidence of clear title and ~~full~~ payment of all property taxes ~~furnished to the City~~, prior to or at the same time of final plat recordation. The Developer ~~applicant~~ shall pay all costs of transferring title of the parkland to the City, including the costs of:

- A. A phase one environmental assessment, which meets the current American Society of Testing and Materials (ASTM), certified to the City. The phase one environmental assessment may not contain any ~~without any further~~ recommendations for clean-up or other remediation, ~~certified to the City and may~~ not be dated earlier than the 120<sup>th</sup> day before the ~~closing date~~ conveyance of the public parkland to the City;
- B. A category 1(a) land title survey, ~~certified to the City~~ shall be provided. The survey shall be prepared by a Texas registered professional licensed surveyor and the survey shall be sealed by the surveyor no ~~and the title company that the survey was not prepared~~ earlier than the 120<sup>th</sup> day before ~~closing date~~ the conveyance of the public parkland of the City;
- C. A title commitment with copies of all schedule B and C documents, ~~and an owner's title policy~~;

- D. A ~~fee-simple~~ general or special warranty deed, subject to approval to form;
- E. Owner's Title Insurance, which is due within 90 days of closing;
- ~~EE.~~ A certified tax certificate showing full payment of taxes;
- ~~FF.~~ Payment of all property taxes through ~~Taxes prorated to the closing-conveyance~~ date;
- ~~HG.~~ Recording fees;
- ~~IH.~~ Charges or fees collected by the title company; and
- ~~JJ.~~ All fees associated with curing all encumbrances or exceptions to the title that preclude ~~its the land's~~ use as ~~a city~~public parkland, ~~at grantor's expense~~.

## 14.4 PARK DEVELOPMENT FEE

### 14.4.1 General

- A. In addition to the dedication and conveyance of public parkland, the Developer shall make a cash payment as a Park Development Fee or construct park amenities based on the anticipated impact that the development will have on the public parkland system. The construction of public amenities shall be in accordance with the provisions herein. ~~A Park Development Fee or the construction of parkland amenities in accordance with the alternative compliance provisions shall be required for residential subdivisions in accordance with the standards stated herein, as applicable, and the Parks Development Manual.~~
- ~~B. In addition to the dedication and conveyance of public parkland, the owner or applicant shall be required to make a cash payment for or construct park development improvements based on the anticipated impact the development will have on the public parkland system.~~
- ~~BG.~~ County applicability provision. Unless otherwise authorized by a park development agreement between the jurisdictions and ~~/or~~ the ~~applicant~~Developer, developments located within the City's ~~e~~Extra-t~~T~~erritorial ~~j~~urisdiction shall ~~either payutilize~~ a Park Development Fee ~~and shall~~ or follow alternative compliance for the construction of public amenities.

### 14.4.2 Park Development Fee Calculation

- A. The Park Development Fee is calculated at a rate of not less than \$350,000 per 1,409 ultimate residents or an equivalent ratio thereof. The following fee rates are calculated based on the expected persons per unit consistent with Table 14.3.2 Persons per Unit.

Table 14.4.2 Park Development Fee
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$(\$350,000 / 1409) \times (\text{Persons Per Unit ("ppu")}) = \text{Park Development Fee Per Unit}$	
Gross Density per Residential Development (Dwelling Units per Acre)	Park Development Fee per Unit
From 0 to 6 (3 ppu)	\$745
Over 6 to 10 (2.7 ppu)	\$670
Over 10 to 25 (2 ppu)	\$496
More than 25 (*2 ppu)	\$496
<u>*For high density residential development above 25 dwelling units per acre, the developer may provide a demographic study to provide proof that the occupancy rate of the development averages less than 2 persons per unit, however at no time shall the density average less than 1.75 persons per unit. In such event, the Administrator is authorized to reduce the gross density/persons per unit ratio, whereby one person per unit, or fraction thereof, shall be multiplied by \$248 to equal the total Park Development Fee required. (i.e., 1.75 ppu equals \$434 per unit)</u>	

B. Unless the density of multi-family or condominium developments is identified on the permit application subject to this Subchapter, it shall be assumed that the highest density authorized under this ~~Chapter Code~~ is the development's density unless the ~~applicant-Developer~~ provides by plat note ~~or, or be~~ other binding written memorialization acceptable to the Administrator, the ~~actual-maximum project~~ density ~~that the project shall not exceed.~~

## 14.5 ALTERNATIVE COMPLIANCE

Alternative compliance is a method by which the purposes of this Subchapter can be achieved by the Developer through constructing public amenities in public parks or private amenities in private parks, or a combination of both.

### 14.5.1 Generally

- A. Alternative compliance is not intended to subvert the public parkland standards provide in this Subchapter; but is intended to ensure the intent of the Parks, Recreation and Open Space Master Plan is addressed through the development process by appropriate measures.
- B. Unless, otherwise specifically provided for in this ~~subsection-Section 14.5-E~~, alternative compliance shall be reviewed by the Parks and Recreation Commission, who shall make recommendation to the ~~City Council~~ Planning and Zoning Commission to accept or deny the proposed alternative compliance. ~~City Council shall make a final determination whether the proposed alternative compliance is approved, disapproved or approved with conditions.~~ In event that the proposed alternative compliance is approved with conditions, such conditions shall be memorialized in a written order that may be part of a ~~resolution or ordinance of City Council.~~ development agreement or plat notes.

- C. All parks and parkland improvements shall meet all federal, state, and local regulations and guidelines as required by the Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS), as well as guidelines established by the Commercial Park Advisory Council (CPAC) and the National Playground Safety Institute (NPSI).
- D. Park Development Agreement (phasing). In order to ensure the fulfillment of alternative compliance provisions pertaining to the construction of public or private amenities throughout the development process, the City may require the Developer~~—applicant~~ to enter into an agreement with the City outlining memorializing the terms of park development.

#### 14.5.2 Parkland Fee In-Lieu – Criteria for Approval

- A. Due to the proximity of existing public parkland or the size of the development that would be better served by a community or regional park, the Ddeveloper may be required or may request a reduction in the public parkland dedication requirement up to one hundred (100%) percent by means of a fee in-lieu, in accordance with the parameters stated herein. The Parks and Recreation Director may require or accept cash payment in lieu of public parkland, or a portion thereof, within certain parameters provided below, if the development requires the dedication and conveyance of less than three (3) acres of public parkland. The Parks and Recreation Commission shall review any fee in-lieu request of public parkland ~~that~~where: 1) the request does not meet the specific criteria for approval by the Parks and Recreation Director; or 2) if the request involves a ~~the~~ development that requires the dedication and conveyance of three (3) acres or more of public parkland. ~~—and provide—~~ Following consideration, the Parks and Recreation Commission shall forward a recommendation to the Planning and Zoning Commission ~~and/or City Council~~.
- B. The parkland fee in-lieu is established at \$43,560 per acre, or a portion thereof, for the value of platted land to be developed for residential uses that would otherwise be dedicated and conveyed to the City as public parkland. The fee in lieu of parkland dedication is based upon the fair market value of the land; that is developable for single family use; and that would otherwise be required to be dedicated as public parkland for the proposed development, with all utilities extended to and through the property and situated outside of the 100-year floodplain. The fee may be evaluated on an annual basis by the Planning and Zoning Commission and/or the Parks and Recreation Commission. Any recommendation for amending the established fee amount shall be forwarded to the City Council for approval. The price per acre for fair market value may be modified upon submittal of an appraisal ~~meeting-satisfying~~ the property value criteria outlined above in this Subsection. The ~~that appraisal is~~ may not be more than a year old.
- C. Less than three (3) Acres Required – Criteria for Approval by the Parks and Recreation Director
  - 1. If a~~the~~ proposed development ~~does not contain 100-year floodplain, and is~~ located within a quarter-mile radius of existing community level public



parkland totaling five (5) contiguous acres or more, a full payment of fee in-lieu of public parkland may be required; or

2. If the proposed development is located within a half-mile radius of existing community level public parkland totaling ten (10) contiguous acres or more, a partial payment of fee in-lieu of public parkland up to 50% may be accepted with the addition of private park area equal to the remainder of the public parkland that would have otherwise been dedicated and conveyed to the City. Private park area required under alternative compliance shall be entitled to a credit for public parkland dedication. The private park area shall be required to meet all the criteria for public parkland dedication under Section 14.3, unless a waiver is granted by the Administrator under Section 14.3.5.1; or
3. Notwithstanding the aforementioned provisions, if the proposed development has an estimated population of 150 people or fewer based on Table 14.3.2, the Parks and Recreation Director may accept a fee in lieu of public parkland.
4. If the development does not meet the aforementioned criteria for approval by the Parks and Recreation Director, the request for fee in-lieu shall be reviewed by the Parks and Recreation Commission and a recommendation forwarded to the Planning and Zoning Commission for final determination.
5. ~~Private park area required under this section of alternative compliance shall be entitled to credit for public parkland dedication. The private park area may be required to meet all the criteria for public parkland dedication per Section 14.3, including but not limited to, dimensions, access, location, character, and unsuitable land.~~

D. More than three (3) Acres Required – General Criteria Guidelines for Approval recommendation by Parks and Recreation Commission for Planning and Zoning Commission approval.

1. Reduction does not exceed 50% of the requirement and proposed parkland dedication is three (3) acres or more;
2. Reduction does not exceed ten (10) acres;
3. Development is adequately served by the proposed or existing public parkland; and
4. Consistency with intent of the City's Parks, Recreation, and Open Space Master Plan.

E. Miscellaneous Public Parkland Fee In-Lieu Provisions

1. Private amenities within a residential development shall not be credited towards satisfying the public parkland dedication requirements or the parkland fee in-lieu requirement.

### 14.5.3 Construction of Public Amenities in Public Parks – Criteria for Approval

- A. As an alternative to paying the~~In-lieu of the~~ Park Development Fee, or a portion thereof, the ~~applicant~~Developer may make a request to the Parks and Recreation Commission for a recommendation to the Planning and Zoning Commission ~~to be allowed~~for authorization to construct public amenities on public parkland, in

accordance with the Parks Development Manual, as amended, ~~to be credited towards satisfying the Park Development Fee in accordance with Section 14.4.~~ If the development is governed by a park development agreement, a request under this section must also be approved by City Council.

- B. Design, specification, and construction of the improvements shall be subject to review and administrative approval by the City. Construction of the amenities, for the portion required for the final plat(s) approved, must be completed within the time period prescribed in the development agreement; or, within three (3) years of the City's approval of the first final plat of the subdivision, when the applicant has not entered into a park development agreement. Fiscal security for the construction of amenities shall be provided in the amount required for the ~~p~~Park ~~d~~Development ~~F~~ee, in a form acceptable by the Administrator.
- C. All park amenities shall meet all federal, state, and local regulations and guidelines as required by the Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS), as well as guidelines established by the Commercial Park Advisory Council (CPAC) and the National Playground Safety Institute (NPSI).
- D. Non-creditable items: ~~S~~shrubs, sod, re-vegetation, swimming pools, subdivision signage, administrative, professional, engineering or legal costs, development application fees, and any public improvement otherwise required through the subdivision process may not be credited toward the Park Development Fee.

#### 14.5.4 Construction of Private Amenities in Private Parks – Criteria for Approval

- A. In accordance with the Parks Development Manual, as amended, privately owned and maintained parks with non-exclusive private amenities and privately owned and maintained parks where public access is unrestricted, may receive up to one hundred (100) percent credit towards fulfilling the requirements of the Park Development Fee, upon approval by the Parks and Recreation Director.
- B. In accordance with the Parks Development Manual, as amended, privately owned and maintained parks with exclusive private amenities within developments that consist of a density of ten (10) dwelling units per acre or greater, may receive up to one hundred (100) percent credit towards fulfilling the requirements of the Park Development Fee, upon approval of the Parks and Recreation Director with the following conditions and requirements: ~~Commission.~~
  - 1. ~~C.~~ — Fiscal security for the construction of private amenities shall be provided in the amount required for the ~~p~~Park ~~d~~Development ~~f~~ee prior to plat approval, in a form acceptable by the Administrator.
  - 2. ~~D.~~ — Regardless of whether the amenity is exclusive or non-exclusive, as defined by the Code or Parks Development Manual, Pprivate amenities included within private parks approved to be credited towards meeting the requirements of this section 14.5.4.B and in accordance with the Parks Development Manual may remain exclusive. ~~to the common interest owners of the development.~~

3. ~~E.~~ Restrictive Covenants. Private parks ~~must~~ shall be managed by a mandatory homeowner's association ~~and~~ servicing a development subject to restrictive covenants that:

- a. Requires each property owner within the subdivision encumbered by the restrictive covenants to pay dues and special assessments for the maintenance of the private park; and
- b. Prohibits the dissolution of the private park until such time as the declarant cedes control of the homeowner's association to purchasers of properties within the subdivision, and then only upon amendment ~~to~~ of the restrictive covenants, which has to be approved by  $\frac{3}{4}$  of the members of the homeowner's association.

4. ~~F.~~ The private amenities, ~~for~~ which receive credit for the Park Development Fee, shall be located contiguous to existing or proposed public parkland, where practicable.

~~4.5.~~ All private amenities shall be privately maintained.

#### 14.5.5 Combination Public Parkland and Construction of Public Amenities ~~of Alternative Compliance~~

- A. A combination of public parkland and public amenities may also be considered by the Parks and Recreation Commission and approved by the Planning and Zoning Commission through alternative compliance. However, in no event may the addition of private amenities be credited toward satisfying the public parkland dedication or parkland fee in-lieu of dedication requirement.
- B. In accordance with the Parks Development Manual, the applicant may seek ~~approval~~ a recommendation from the Parks and Recreation Commission to the Planning and Zoning Commission for approval for a reduction in the amount of required public parkland by providing additional public amenities equal to the ~~cost~~ value of the land that would have otherwise been dedicated to the City. If the development is governed by a park development agreement, a request under this section must also be approved by City Council.

## 14.6 PAYMENTS

### 14.6.1 General

- A. All cash payments shall ~~will~~ be deposited in an escrow account to be used by the City exclusively for the acquisition or improvement of public parkland.
- B. Such payments shall be expended by the City within ten (10) years from the date the payment is received by the City. If the payments are not expended by the City within the allotted 10-year time frame, the D ~~e~~veloper may request a reimbursement of said payment until one year after the ten-year anniversary date of the payment made to the City.

### 14.6.2 Assessment and Payment Provided

- A. Any payment for fee in-lieu of public parkland or Park Development Fee shall be assessed at the time of preliminary plan is approved.
- B. Payment of fee in-lieu of public parkland or fiscal security, if applicable, shall be provided prior to the approval of the final plat.
- C. Payment of the Park Development Fee or fiscal security, if applicable, shall be provided at the time of final plat, unless otherwise specified by a development agreement.

## 14.7 REVIEW PROCESS

### 14.7.1 Authority

Public parkland dedication shall be reviewed through the subdivision process at the preliminary plan stage. The preliminary plan and a conceptual site plan for the construction of public amenities, if applicable, shall be reviewed by the Parks and Recreation Commission or Parks and Recreation Director, where applicable, prior to ~~making—its~~forwarding the applicable recommendation to the Planning and Zoning Commission.

### 14.7.2 Preliminary Plan

The Parks and Recreation Commission and/or Parks and Recreation Director, where applicable, shall make a recommendation regarding parkland requirements to the Planning and Zoning Commission ~~and/or City Council~~ upon compliance with the parkland standards provided herein. The following items shall be provided within the preliminary plan application and reviewed in accordance with the procedures outlined in Subchapter 15.7 Subdivision Process of the ~~is~~ Code UDC.

- A. Proposal report identifying how the ~~P~~parkland ~~D~~edication and ~~P~~park d~~e~~velopment ~~F~~ee requirements have been satisfied. This may include cost estimates for proposed parkland improvements~~;~~.
- B. Phase one environmental assessment, which meets the current American Society of Testing and Materials (ASTM)~~;~~.
- C. A category 1(a) land title survey, certified to the City by a Texas Registered Professional Land Surveyor that is, no more than 6 months old~~;~~.
- D. A title commitment with copies of all documents reflected on the associated~~all~~ schedules B and C~~;~~ and documents
- E. A 22" x 34" aerial photograph of the proposed Parkland with at least 2-inch color resolution ortho imagery that is no~~, must not be~~ older than the current aerial photo on record at the City and ~~must~~ which accurately identifies~~y~~ creeks, ponds, drainage features and property boundary lines.

### 14.7.3 Final Plat

~~Once the City Council consents to the conveyance of public parkland by warranty deed, p~~Public parkland included within a proposed final plat shall be reviewed by the Planning and Zoning Commission for compliance with the approved preliminary plan and the conveyance procedures provided herein. The following items shall be provided within the final plat application and reviewed in accordance with the procedures outlined in Subchapter 15. Subdivision Process of the UDC.

- A. Public parkland dedicated on a final plat must be labeled as “public parkland” and the label must include a reference to the recorded deed conveying the parkland property; -document number.
- B. General plat notes;
- C. If applicable, payment of parkland fee in-lieu, or a portion thereof approved by the City;
- D. If applicable, payment of the Park Development Fee; and;
- E. If applicable, all items included within Section. 14.7.4 Conveyance of Public Parkland by Deed, below.

### 14.7.4 Conveyance of Public Parkland by Deed

The conveyance of public parkland by deed may occur before or immediately after contemporaneously with the recordation of the final plat. The ~~subdivider~~ Developer shall be responsible for all costs necessary to ~~of~~ transfer title to the City (or governing political subdivision); in accordance with Section- 14.3.6; and shall provide a copy of the title policy within 90 days of closing conveyance. The following items shall be reviewed by the City prior to the ~~closing of title~~ conveyance of public parkland.

- A. An environmental site assessment without any further recommendations for clean-up, certified to the City not earlier than the 120<sup>th</sup> day before the closing date;
- B. Draft of general or special warranty deed approved by the City Attorney, and if applicable, a list of any proposed exceptions to title provided as an exhibit included within the deed. If the legal description is provided by metes and bounds, a survey sketch shall also be provided to accompany the metes and bounds description within the recorded deed;
- C. A title commitment with copies of all documents reflected on the associated schedules B and C ~~documents~~;
- D. A certified tax certificate showing full payment of taxes; and;
- ~~E.~~ F. Confirmation that Developer's Warranty requirements of Sec. 14.3.4 have been satisfied.

### 14.7.5 Alternative Compliance – Construction of Public Amenities

- A. If applicable, and in accordance with the alternative compliance provisions provided herein, a conceptual plan for the construction of public amenities drafted and sealed by a licensed engineer; or licensed architect ~~or architect~~ shall be reviewed by the Parks and Recreation Commission.

- B. A ~~formal site plan~~ public infrastructure construction plan shall be required for the construction of public amenities, to be reviewed by staff, in accordance with the standards and procedures outlined in Subchapter 3-~~Procedures~~ of the UDC.
- C. If applicable, prior to site plan approval by the City, fiscal security in an amount equal to ~~110~~ 100 percent of the cost of the ~~public improvements, including~~ public amenities, in a form acceptable to the Administrator ~~or designee~~, shall be provided to the City.
- D. Prior to the final acceptance of the public improvements by the City ~~of Pflugerville~~, the ~~subdivider~~ Developer shall provide proof of the ~~hard~~ construction costs of such amenities ~~by a~~ through certified construction bids and invoices. In the event the Developer ~~subdivider~~ does not expend the total amount required by the Park Development Fee formula or other alternative compliance provision, the Developer ~~subdivider~~ shall make a cash payment for the remainder.

#### 14.8 DECISION MAKING; APPEAL PROCESS

- A. Decisions under this Subchapter shall be made by the Administrator, City Manager, Parks and Recreation Director, ~~or the Parks and Recreation Commission, and Planning and Zoning Commission according to the sections stated herein~~. Where this Subchapter is silent, the decision shall remain with the Parks and Recreation Director.
- B. The applicant may appeal any adverse decision required to be made under ~~to~~ this Subchapter to either the Planning and Zoning Commission, or City Council, as the case may be, within 30 days of such decision.
- C. Within 30 days of a decision by the Planning and Zoning Commission, either the applicant or the Parks and Recreation Director may appeal any decision of the Planning and Zoning Commission to the City Council, whose decision on the appeal shall be final.