

2009-Or-____

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By: Ostrow and Johnson

Amending Title 22, Chapter 598 of the Minneapolis Code of Ordinances relating to Land Subdivision: Land Subdivision Regulations.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Chapter 598 of the Minneapolis Code of Ordinances be amended by adding thereto a new Article V, including new Sections 598.340 - 598.420, to read as follows:

ARTICLE V. PARKLAND DEDICATION

598.340. Findings and purpose. The city council of the City of Minneapolis and the park and recreation board of the City of Minneapolis jointly find that the preservation and development of parks, playgrounds, recreational facilities, wetlands, trails, and open space areas within the city are essential to maintaining a healthy and desirable environment for residents and persons employed within the city. The value and attractiveness of residential, commercial, and industrial developments to land owners, developers, purchasers, employers, and employees is significantly enhanced by the presence of park and open space amenities.

The city council and park and recreation board find that the development of land for new residential, commercial, and industrial purposes creates a need for park and recreational land and facilities within the city that exceeds current park resources. The city council and park and recreation board find that: 1) the National Recreation and Parks Association's guidelines for park system planning are that neighborhood parks have a service area between one-quarter (1/4) to one-half mile (1/2) and that the service area for community parks is between one-half (1/2) to three (3) miles; 2) the Urban Land Institute's guidelines have a one-half (1/2) mile service radius for neighborhood parks and a two (2) mile service radius for community parks; 3) one of the stated goals of the park board's park system plan is to "ensure park access for all residents by providing parks within an easy walk from their homes (no more than 6 blocks) and achieving a ratio of .01 acres of parkland per household." 4) the city's current neighborhood and community parks consist of 1729 acres; 5) the city has projected that by the year 2030, 26350 new households will be added to the city creating a demand for an

additional 263 acres of neighborhood and community parkland; 6) the city's comprehensive plan projects net new job growth of 53,760 by the year 2030, which would create an additional need for one hundred twenty-two (122) acres of parkland.

It is both appropriate and reasonable that new development contribute to addressing this systemic need in rough proportion to the relative burden it will place upon existing park resources. Park dedication requirements are based on the Minneapolis Park and Recreation Board's standard of .01 acres per household for neighborhood and community parks. The average household size for the city as a whole is 2.25 persons per household. The average household size for neighborhoods in the downtown area is smaller with an average household size of 1.48 persons or sixty-six (66) percent of the city's average household size. Parkland dedication for residential development within the downtown area shall be based on sixty-six (66) percent of the land area or cash in lieu of fees as that required for the remainder of the city.

Further recognizing that employees of commercial and industrial land uses place demands on parks, albeit to a lower extent than residents, park land dedication for commercial and industrial development is based on one-half (1/2) the rate of .01 acres per household required for residential uses divided by the average 2.25 persons per household resulting in one hundred (100) square feet per employee.

The city council and park and recreation board find that the requirements of this ordinance are in accordance with the parks and open space goals and policies of the comprehensive plan and park system plan, and are proportionate, fair, and reasonable with respect to the park land and facilities need generated by new development occurring within the city.

598.350. Authority. Pursuant to Minnesota Statutes Section 462.358, Subd. 2, as amended, Laws of Minnesota 2006, Chapter 269, and Laws of Minnesota 2008, Chapter 331, the city and park and recreation board are jointly authorized to require that a reasonable portion of any new residential, commercial, and industrial development be dedicated to the public for public use as parks, playgrounds, recreational facilities, wetlands, trails, or open space areas, and that the city and park and recreation board may alternatively accept an equivalent amount in cash.

598.360. Definitions. The following terms whenever used in this article shall have the following respective meanings:

Affordable Housing Units means residential dwelling units financed in whole or in part by a local, state, or federal government entity for the purpose of creating housing affordable to and occupied by households earning sixty (60) percent or less of the Metropolitan Median Income (MMI).

City means the City of Minneapolis.

Comprehensive plan means the Comprehensive Plan of the City of Minneapolis.

Developer means any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof who seeks to improve property in a manner that would result in a net increase in the number of residential dwelling units on the property or create or expand a commercial or industrial use on the property, and includes any property owner or subdivider of the land.

Development employees refers to the approximate number of new or additional employees that will result from the proposed commercial or industrial development or expansion and is equal to the product of (1) the number of square feet of floor area of the new structural improvements in the proposed commercial or industrial development or expansion divided by one thousand (1,000) (or for hotels, the number of hotel rooms) and (2) the average number of employees per one thousand (1,000) square feet of floor area of the proposed type of development (or for hotels, the average number of employees per hotel room) based on data maintained by the department of community planning and economic development.

Development site refers to a plot of land that is intended or suitable for a proposed servicing of unimproved land or the improvement of previously developed land and for which there is the proposed construction of new buildings or renovation or significant change of existing buildings to accommodate a new land use or increased density of a land use and for which planning approvals are required.

Downtown area means the geographic area of the City bounded by Interstate 35W, Interstate 94, Plymouth Avenue, and the Mississippi River.

Dwelling unit means one (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with a single complete kitchen facility, sleeping area and bathroom provided within the unit for the exclusive use of a single household.

Neighborhood means one of the eighty one (81) areas within the City of Minneapolis officially designated as neighborhoods by the Minneapolis Planning Department.

Open space means land that is owned in fee or used through an easement with acreage that does not primarily consist of structures or facilities and can include natural areas that have not been subject to development or contain unique ecological or wildlife habitat features.

Park means public parks operated by the City of Minneapolis or park board, including all park buildings.

Park, community means a public park that is a minimum of six (6) acres in size serving the community that may include more specialized or unique features that are not typically provided in a neighborhood park.

Park, neighborhood means a public park that is six (6) acres or less in size that is designed to serve a single neighborhood.

Park board means the Park and Recreation Board of the City of Minneapolis.

Park system plan means the system-wide plan adopted by the Minneapolis Park and Recreation Board for the acquisition, development, or redevelopment of parks, playgrounds, recreational facilities, wetlands, trails, or open space areas.

Playground means an area especially designed for children to play which may or may not include play structures, swings, see-saws and may also have facilities for playing informal games of adult sports such as a baseball diamond, hockey rink, or basketball court.

Recreational facility means recreational improvements that are not typically provided in either a neighborhood park or a community park, such as a community garden, that are designed to facilitate recreational activities. Recreational facilities shall also include recreational improvements, such as community centers or sports fields, that are not located in either a neighborhood park or a community park.

Trail means a linear corridor which provides a separated right-of-way with cross flows by motorists minimized and which is designed for recreational purposes such as walking, running, and bicycling.

Wetland means a lowland area, such as a marsh, that is saturated with moisture, as defined in Section 404, Federal Water Pollution Control Act Amendments of 1987, or the Minnesota Wetland Conservation Act of 1991.

598.370. Land dedication requirements. (a) *Generally.* Pursuant to Minnesota Statutes Section 462.358, Subd. 2, as amended, Laws of Minnesota 2006, Chapter 269, and Laws of Minnesota 2008, Chapter 331, any developer of land within the city that will result in a net increase in the number of development employees and/or a net increase in the number of residential dwelling units shall convey or dedicate to the public a reasonable portion of the land for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space.

This requirement shall apply to platting of land, re-platting of land, registered land survey, or development that will require a building permit, but shall not apply to tax parcel combinations or splits, minor subdivisions, conversions of apartments to condominiums, or internal leasehold improvements that do not result in a net increase in the number of residential dwelling units or development employees.

The city, in consultation with the park board and developer, shall determine the 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 below. The park board may decline any such proposed dedication by responding in writing in a timely manner to a communication from the city to the park board describing the proposed land dedication. In such case, the developer will be required to make a payment-in-lieu of dedication in accordance with subdivision (c) below.

Criteria to be considered:

- (1) The land to be dedicated must be in conformance with the comprehensive plan and applicable adopted small area plans and in an area that is identified for park or conservation purposes in an adopted city or park board plan;
- (2) The land to be dedicated should serve an appropriate public purpose, which might include one or more of the following:
 - a. Connecting existing components of the parks and open space network (including creation of a trail connection);
 - b. Expanding an existing public park, trail, or open space by the addition of adjacent land;
 - c. Preserving significant landforms, native plant communities, sensitive habitat, and/or cultural resources;
 - d. Preserving areas containing vegetation identified as endangered or threatened or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 United States Code Section 1531 et seq. or Minnesota Statutes Section 84.0895, and rules adopted under these respective laws;
 - e. Providing space for recreational and leisure uses appropriate to meet the needs of the new residents and/or employees;
- (3) There must be sufficient resources, public and/or private, available and committed to develop, operate, and maintain the new park land;

- (4) The land to be dedicated should help serve an area that is under-served by parks due to distance to existing parks, population density, inadequate facilities, or inadequate size of existing nearby parks;
- (5) The land to be dedicated shall be large enough for its intended purpose;
- (6) Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted as satisfying the land dedication requirements of this article;
- (7) Dedicated land shall be accessible to the public served unless the city determines that the dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

(b) *Formula for dedication of land.* At any time that net new residential dwelling units and/or net new or increased development employees will result from development, the developer shall dedicate:

- (1) .0066 acres of land for every newly created residential dwelling unit within the downtown area or .01 acres of land for every newly created residential dwelling unit outside of the downtown area, up to a maximum of ten (10) percent of the area being platted or developed, plus
- (2) 100 square feet of land for each development employee, up to a maximum of ten (10) percent of the area being platted or developed.

Land so dedicated shall be within the plat, registered land survey, or development site and/or, subject to approval by the city after consultation with the park board and the developer, in close proximity to the plat, registered land survey, or development site. The city may require the land dedication option under this subdivision (b) as a condition of plat, registered land survey or building permit approval, and in so doing may require that the land be dedicated prior to or at the same time as recording the final plat or registered land survey.

Unless otherwise approved, no parkland dedication smaller than one acre will be accepted and a cash payment in lieu of dedication shall be required.

(c) *Dedication option; fee payment.* If a plat or registered land survey is not required under section 598.40, if the dedication of land is not practical, or if the city determines that the land to be dedicated does not meet the requirements of subdivision (a), then a developer of property subject to subdivision (b) of this section shall contribute a cash payment in lieu of all or a portion of the land

otherwise required under subdivision (b) of this section. The amount of the cash payment shall be based upon the City Assessor's most recent certified land estimated market value per square foot of the total acreage of the plat or development site at the time of city approval, multiplied by the number of square feet that would have been dedicated under subdivision (b). In determining whether land dedication or cash in lieu thereof will be required, the city may 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. The cash payment in lieu shall be contributed prior to obtaining the city clerk's signature on the final plat or prior to obtaining the building permit required for the project.

The amount of cash in lieu of land shall not exceed:

- (1) two thousand (2,000) dollars per residential dwelling unit with said maximum to be adjusted annually as described below, plus
- (2) two hundred (200) dollars per development employee, with said maximum to be adjusted annually as described below.

Both the per unit and per development employee limits above shall be adjusted each March 1 by the change in the Consumer Price Index for all Urban Consumers (CPI-U, all Items) for the Minneapolis-St. Paul area issued by the Bureau of Labor Statistics for the preceding twelve months ending December 31 of the previous year.

In the event there is a significant change in the size and/or type of a development project that is subject to this parkland dedication ordinance, there may be a commensurate increase in the parkland dedication fee or a refund of the previously paid fee. Said increased fee or refund will be payable at the time the building permit review fee for the revised project is collected.

(d) *Exemptions.* The following are exempt from the parkland dedication requirements:

- (1) all affordable housing units as defined in section 598.360.

598.380. Private land maintained for public use. The city may at its discretion, waive all or a portion of the land or cash dedication required in section 598.370 and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas within the proposed development, 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,

recreational facilities, wetlands, trails, or open space areas 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 must find that such land and improvements will serve the purposes listed in section 598.370(a); and

(4) The city, park board, and developer of the land must have executed a parkland development agreement ensuring that specified land shall be developed and maintained by the developer, 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 598.370(a). The developer must include a covenant running with the specified land indicating that the land to be developed and maintained for the purposes listed in section 598.370(a) will revert to the city and/or park board 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 or prior to obtaining building permits, as applicable.

(5) Yards, court areas, setbacks, and other open areas required by zoning and building ordinances and regulations shall not be included in the computation for park dedication credits.

(6) Before credit is given, the city shall make a finding that such credit is acceptable.

(7) That where such credit is granted, the amount of the credit in the downtown area may be up to one hundred (100) percent of the park dedication requirements for the development.

(8) That where such credit is granted, the amount of the credit elsewhere in the city shall not exceed seventy-five (75) percent of the park dedication requirements for the development.

(9) If the developer provides park and recreational improvements, site amenities, or other landscape elements to the public use space, the value of the improvements shall be credited against the park dedication fees.

598.390. Land conveyance standards. Prior to dedication and conveyance of the required property to the city (or the park board on behalf of the city), the developer 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 section 598.370(b) 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 or prior to obtaining building permits for the development, as applicable.

598.400. Parkland dedication special fund created. There is hereby established a parkland dedication special fund. All funds collected pursuant to the parkland dedication process shall be deposited in the parkland dedication special fund, accounted for separately, and used solely for the acquisition and development or improvement of lands dedicated for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas in the neighborhood of the subdivision or development for which the funds were collected. In the event that the funds collected cannot be reasonably used within the neighborhood of the subdivision or development, the funds may be used in an adjacent neighborhood within one-half (1/2) mile of the development. If the funds cannot reasonably be used in the development neighborhood or an adjacent neighborhood within one-half (1/2) mile of the development then the funds may be used in an adjacent neighborhood to the development, not to exceed a distance of two (2) miles from the development, and/or for a trail connection at any distance from the development as long as a segment of that trail is within one-half (1/2) mile of the development, if there is a finding that the project for which the funds are expended provides a direct benefit to the development from which the fees were collected.

Such funds shall not be used for ongoing operations or maintenance.

All fund expenditures shall be approved on an annual basis as part of the city's and park board's annual capital budgeting process. Expenditures from the parkland dedication special fund shall be in conformance with the city's adopted comprehensive plan, development or project plans for sub-areas of the city, and the park system plan, and shall be consistent with other applicable criteria in subdivision (a) of this section.

598.410. Administrative Fee. An administrative fee of five (5) percent of the park dedication fees, not to exceed one thousand (1,000) dollars per project, collected through building permits shall be paid to the city upon platting or building permit issuance. The administrative fee shall be paid by the park board from funds other than the parkland dedication funds.

598.420. Effective date. This ordinance shall take effect on January 1, 2010 or six (6) months after final adoption of the same ordinance by the park board and city, whichever occurs later.