

**ARTICLE VI. CONVEYANCE OF LAND FOR RECREATIONAL AREAS AND FACILITIES**

**Sec. 142-153. Purpose.**

It is hereby declared by the City Council that public parks, recreational facilities, and open spaces are valuable assets that advance the public's health, safety, and welfare, and improve the overall quality of life of the community's residents. New residential development in the city creates the need for additional parks and recreation resources because of the increased population. Requiring that new residential development dedicate parkland and pay park development fees in proportion to its impacts on the City's parks and recreation resources is recognized as a fair, reasonable and uniform method of financing these assets that does not impose an unfair burden on new or existing development. The parkland dedication and park development fee requirements established in this article aim to maintain the current level of service in the City and generally flow from the assessment of needs reported in the McKinney Parks, Recreation, Open Space, Trails & Streetscape Visioning Master Plan (2017), as it may be amended from time to time (the "Parks Master Plan"). Accordingly, this article requires the dedication of parkland and payment of park development fees to:

1. Meet the goals and objectives set forth in the Parks Master Plan.
2. Deliver new and/or updated parks, recreation, trails and open space resources to meet the increased demand generated by new development on the parks system.
3. Establish proportionate costs that are associated with providing new or updated parks and facilities, so the increased costs are borne by those who are responsible for creating the additional demand.
4. Create a variety of recreational opportunities for residents within reasonable proximity to their homes.
5. Provide credit for applicable private and semi-public parkland and/or park-like amenities that offset the increased demand on the parks system generated by new development.

**Sec.142-154. Authority.**

Unless otherwise specified, the provisions of this section shall be administered by the Director of Parks & Recreation ("Director") or their designee. The standards and criteria contained within this article are deemed to be minimum standards.

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## **Sec.142-155. Applicability.**

1. New Residential Development and Redevelopment
  - a. This article applies to a landowner that develops or redevelops land located within the City for residential use.
2. Exemptions
  - a. Non-residential Uses.
  - b. Assisted Living/Memory Care/Skilled Nursing Uses.
  - c. Properties located within the City's Extraterritorial Jurisdiction ("ETJ") at the time development occurs.
  - d. The remodeling, rehabilitation, or other improvements to an existing residential structure, or the rebuilding of a damaged structure that does not increase the number of residential units.
  - e. If a parkland dedication requirement was satisfied or a park development fee was paid for residential development on a particular tract prior to the amendment of this article, then subsequent development of the subject tract to which the parkland dedication requirement and/or park development fee applies may be exempt from any increased requirements. However, if there is an increase in the number of dwelling units on such a site, then there shall be a proportional increase in the parkland dedication requirement and the payment of park development fees.
  - f. Residential development on a lot of record, and which development was approved prior to the effective date of the ordinance from which this article derives. However, if there is an increase in the number of dwelling units on such a site, then there shall be a proportional increase in the parkland dedication requirement and the payment of park development fees.
  - g. Residential development constructed or to be constructed in accordance with a building permit issued prior to the effective date of the ordinance from which this article derives provided such building permit has not lapsed or otherwise expired and has not been modified to increase the number of residential units allowed.
  - h. Residential development within the MTC – McKinney Town Center zoning district. Please refer to Appendix G of the City of McKinney Zoning Regulations for open space standards applicable to all new residential development within the MTC.
3. Effective Date
  - a. The provisions of this article shall take effect on October 1, 2022.
  - b. Notwithstanding subparagraph 3.a., a developer may request that all of the parkland dedication and park development fee requirements established by this article be applied to a new residential development after its adoption

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and publication as required by state law and prior to October 1, 2022, subject to the approval of the Director.

**Sec. 142-156. Parkland Dedication and Park Development Fee Standards in General.**

1. As a condition of subdivision development, a developer of property for residential uses shall dedicate land for parks or pay a fee in lieu of dedicating land or a combination of both as approved by the Director.
2. In addition to the parkland dedication requirement, a developer of residential property shall pay a park development fee. Subject to the approval of the City, a developer may elect to construct required park improvements as identified by the Director on City-owned parkland in lieu of paying the associated park development fee as set forth in this article.
3. City Council has established seven (7) geographical park zones and one (1) citywide park zone as depicted on Appendix A attached hereto and incorporated herein by reference for all purposes allowed by law. Except as provided below, parkland dedications including any fees paid in lieu of parkland dedication and park development fees from a residential development shall (with certain exceptions identified in this article) be located, conveyed, held, and utilized in the geographical park zone in which the subject development is located or in an adjacent geographical park zone where the subject development occurs near the perimeter of or overlaps geographic park zones subject to the discretion of the Director.
4. Up to ten percent (10%) of any fees paid in lieu of parkland dedication and park development fee(s) collected may be applied to the citywide park zone for use anywhere in the City's parks system at the discretion of the Director. No less than ninety percent (90%) of any fees paid in lieu of parkland dedication and park development fee(s) collected shall (with certain exceptions identified in this article) be applied to the applicable geographical park zone.
5. The transfer of fees identified in this article between and among geographical park zones are permitted subject to review and approval by the Director and the repayment of such fees to the originating geographical park zone.
6. Parkland dedication requirements (and/or payment of fees in lieu of parkland dedication) and payment of Park Development Fees shall be satisfied at the time of plat recordation for single family and duplex residential units, and prior to the issuance of any building permits for all other residential development.
7. Requirements herein are based on the actual number of dwelling units for an entire development. Increases or decreases in the final unit count may require an adjustment in park development fees paid or parkland dedicated.
8. The required parkland dedications and schedules of park development fees are listed in Table 1-1 with supporting analysis attached hereto as Appendix B and made a part of this article for all purposes allowed by law.
9. City Council has adopted a Discount Schedule to reduce certain park development fees over an established timeframe listed in Table 1-1.

10. Certain developments and use types may qualify for credits as listed in Table 1-2 (see Section 142-162) if all conditions precedent thereto are satisfied in the determination of the Director.

<b>Table 1-1: Minimum Parkland Dedication and Park Development Fee Requirements</b>					
		<b>Parkland Dedication<sup>2</sup></b>		<b>Park Development Fee<sup>2</sup></b>	
		<b>Acres of Land</b>	<b>Fee in Lieu of Land</b>	<b>Single-family</b>	<b>Multi-family</b>
<b>Required</b>		One (1) Acre outside of floodplain per 37 Units (Three (3) acres of floodplain equate to one (1) acre of parkland, with not more than 20% of any parkland dedication site being allowed in a floodplain)	Fair Market Value of One (1) Acre of Land within the Tract being Developed Multiplied by the Number of Acres Required	\$1,993 per Unit	\$1,631 per Unit
<b>Discount Schedule<sup>1</sup></b>	<b>2022 &amp; 2023</b>	none		\$1,000 per Unit	\$1,600 per Unit
	<b>2024 &amp; 2025</b>			\$1,400 per Unit	\$1,600 per Unit
	<b>2026 and beyond<sup>3</sup></b>			\$1,400 per Unit	\$1,600 per Unit

<sup>1</sup> Effective October 1<sup>st</sup> of each calendar year

<sup>2</sup> See Appendix B for supporting analysis

<sup>3</sup> Unless otherwise modified by City Council

**Table 1-2: Parkland Dedication & Park Development Fee Credits**

Use	Parkland Dedication - Reduction in Required Acres or Fee in lieu of	Park Development Fees - Credit for Private Park Amenities
Single-family Residential	none	Up to 50 %
Multi-family Residential	none	Up to 50 %
Mixed-use Residential Structure <sup>1</sup>	25 %	Up to 50 %
Senior/Independent Living <sup>2</sup>	50 %	Not Required
Affordable Housing <sup>3</sup>	50 %	Not Required
Assisted Living/Memory Care/Skilled Nursing	Not required	Not Required

**Sec. 142-157. Parkland Dedication Procedures.**

1. Through the Planning Department’s pre-development meeting process, it may be determined whether parkland shall be conveyed or cash in lieu of parkland dedication shall be paid to the City under this article. Additional meetings between the developer and the Parks and Recreation Department (“PARD”) may be needed in order to evaluate the suitability of potential land for parkland dedication. Additionally, PARD may request a site visit to the subject property as a part of its determination. The following information may be required as a part of the process, prior to the City accepting land as a public parks dedication.
  - a. A narrative outlining the intended use, number of residential units proposed, and description of housing type(s) within the subject property.
  - b. Lot dimensions or metes and bounds acreage of parkland to be dedicated.
  - c. Total acreage of floodplain as well as the land located outside of the floodplain proposed to be dedicated to the City for parkland.
  - d. A tree survey of the proposed parkland.
  - e. A slope analysis of the proposed parkland.
  - f. An environmental survey identifying critical environmental features such as, but not limited to, protected species, habitat, and water features within and about the proposed parkland.

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<sup>1</sup> Typically, a multi-story building with commercial uses on the ground floor, a shared residential entry lobby and common access areas such as hallways or stairs that lead to individual residential units above or behind the commercial uses.

<sup>2</sup> Age-restricted housing per the zoning ordinance. See possible additional reduction of required parkland dedication in Sec. 142-162.

<sup>3</sup> See possible additional reduction of required parkland dedication in Sec. 142-162.

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## Sec. 142-158. Parkland Acceptance Criteria.

1. General Parkland Dedication Requirements
  - a. Must be conveyed in fee simple by general warranty deed.
  - b. Must be by lot and block and shown on a recorded plat of record.
  - c. For a phased development the entire parkland dedication area shall not be deeded to the City until such time that all necessary roadway, utility and other public improvements are constructed to provide accessibility to the proposed parkland and have been accepted by the City, or at the request of the Director.
2. Guidelines
  - a. The City of McKinney generally will not accept dedications of land for parks that are less than 10 acres in area. Maintaining many small parks is inefficient and too costly for the City to sustain over the long-term.
  - b. Encumbrances. Parkland shall be dedicated to the City free and clear of any and all liens and encumbrances that may interfere with the use of the land for park purposes. The City's representatives must be permitted to make onsite inspections of the proposed parkland for the purposes of determining site suitability and identifying any visual hazards or impediments to park development and use.
  - c. Environmental Assessment. If the property owner or developer has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the City. The City may initiate and/or require the developer to initiate specific environmental studies or assessments if the City's visual inspection of the proposed parkland gives rise to the belief that an environmental problem may exist on the site. The Director may also require the employment of consultants necessary to evaluate any environmental issues relating to the site. If an environmental hazard is identified, the developer must remove or remediate the hazard prior to City's acceptance of the proposed parkland dedication. The City will not accept parkland dedication sites previously or currently encumbered by hazardous and/or waste materials or dump sites.
  - d. Infrastructure. The developer is responsible for providing, at no cost to City, convenient access by improved streets, sidewalks, and adequate drainage improvements so the proposed parkland is suitable for the purpose intended. The developer is responsible for providing water, sewer, and electrical utilities to the proposed parkland in accordance with the procedures applicable to other public improvements as specified in the City's subdivision ordinances.
  - e. If soils have been disturbed, they shall be restored to their pre-disturbance condition, and the soil stabilized by vegetative cover by the developer prior to dedication of the proposed parkland to the City.

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- f. Parks should be easy to access and open to public view to benefit area development, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land uses.
  - g. A current title insurance policy acceptable to the City in an amount equal to the fair market value of the proposed parkland dedication must be provided to the City.
  - h. The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the parkland dedication by the City. A tax certificate from the County Tax Assessor shall be submitted with the parkland dedication.
3. Land Requirements
- a. Land parcels that are unsuitable for development are typically unsuitable for neighborhood/community parks. Hence, parkland dedication sites should be selected by the developer prior to a subdivision being platted and acquired as a part of the development process.
  - b. Parkland dedication sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize the number of users crossing arterial roadways to access the proposed parkland dedication site.
  - c. Where feasible, parkland dedication sites should be located adjacent to schools to encourage shared facilities and joint development of new sites.
  - d. Parks should have well-drained and suitable soils and level topography. Parkland dedication sites should not be severely sloping or have unusual topography that would render the land unusable for recreational activities.
  - e. Parks must be adjacent to a street for ease of access and pedestrian, bike or parking accommodations.
  - f. No more than two (2) sides of a park may be adjacent to the rear lot lines of homes.
  - g. Parks must include visible, attractive and suitable means of ingress and egress proportionate to the size and amenities of the parkland dedication site.
  - h. The parkland dedication site should not be encumbered by overhead utility lines or above-ground improvements or easements that might create a dangerous condition or limit the opportunity for park development and use.
  - i. Where appropriate, proposed parkland dedication sites with existing trees or other scenic elements are preferred and may be reviewed by the City's Arborist to make recommendations.
  - j. Rare, unique, endangered, historic or other significant natural areas will be given a high priority for consideration of a parkland dedication site pursuant to this article.

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- k. Consideration will be given to a potential parkland dedication site that is in the floodplain or an area which may be considered “floodable” even though not in a federally regulated floodplain if the proposed parkland site is suitable for park improvements. At the discretion of the City, land in floodplains may be considered as part of a parkland dedication requirement on a three-to-one (3:1) basis. That is, three (3) acres of floodplain will be deemed equal to one (1) acre of parkland, but not more than 20% of any parkland dedication site shall be allowed in a floodplain.
  - l. Detention/retention areas may not be used to meet parkland dedication requirements but may be accepted by City in addition to the required parkland dedication. If accepted as part of a park, the detention/retention area design must meet the City’s specifications.

**Sec. 142-159. Payment of Fees in Lieu of Parkland Dedication.**

- 1. The City may require that a fee be paid in lieu of parkland dedication in amounts as set forth in Table 1-1 and Appendix B.
  - a. The fee to be paid in lieu of parkland dedication will be the average fair market value per acre of the land which is being subdivided determined at the time of the record plat approval or the issuance of a building permit, as applicable. The fair market value shall be established by the most recent appraisal of all or part of the subject property as adopted by the Collin Central Appraisal District and in effect on the date on which the land for which the payment of fees in lieu of parkland dedication is required is record platted. At its discretion, the City may opt to commission an independent appraisal of the subject land by a third party and adjust the amount of assessed value based on any difference between the independent appraisal and the Appraisal District’s valuation.
  - b. Fees collected in lieu of parkland dedication shall be used for the purpose of acquisition, development and/or improvement of park facilities.

**Sec. 142-160. Park Development Fee.**

- 1. In addition to the parkland dedication requirements, park development fees are hereby established and imposed on residential development for the purpose of assuring that park facilities, including neighborhood/community parks and passive park conservation areas, are available and adequate to meet the needs created by such development while maintaining current and proposed parks and recreation standards that meet the City of McKinney’s standards. Park development fees are supplementary to, and not in substitution of, the parkland dedication requirement.
- 2. The amount of park development fees assessed to a residential development and the basis for the calculation is shown in Table 1-1 and Appendix B. Park development fees shall be processed simultaneously with the parkland dedication



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requirements. Park development fees shall be imposed by the City on all residential development, and all park development fees collected shall be used for the purpose of acquisition, development and/or improvement of park facilities.

**Sec. 142-161 Providing Public Park Improvements in Lieu of Paying Park Development Fees.**

1. Subject to the City's approval, a developer may enter into a development agreement with the City to construct required park improvements in lieu of paying the associated park development fees, in whole or in part, as set forth herein. In such event:
  - a. Facilities and improvements provided by a developer shall be constructed on lands dedicated to the City as public parkland, and shall be designed and installed to meet the terms, conditions and requirements under this article, the Parks Master Plan, and as approved by the Director, in accordance with related federal, national, state or local codes including, but not limited to, the following:
    - i. International Play Equipment Manufacturer's Association (IPEMA);
    - ii. Consumer Product Safety Commission (CPSC) Handbook for Public Safety;
    - iii. American Society for Testing and Materials (ASTM and ASTM F08);
    - iv. Accessibility Standards for Play Areas through the ADA Accessibility Guidelines (ADAAG);
    - v. Illuminating Engineering Society of North American (IESNA RP-6-01); and/or
    - vi. Sports Turf Management Association (STMA).
  - b. The amount of park development fees that the developer must pay will be reduced by the actual costs paid by the developer for developer's construction of the park improvements required and approved by City on the City's parklands as such costs are demonstrated by and through approved pay applications and invoices submitted to developer by developer's contractors and materialmen together with documentation demonstrating developer's payment thereof and such additional information as may be requested by City to confirm compliance with the standards referenced in this section. In no event shall City be responsible for paying developer any amounts in excess of the park development fees that developer must otherwise pay, or any amounts for park improvements not approved in advance by City or park improvements not properly constructed and installed.

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## 2. General Requirements for Public Park Improvements

- a. A park site plan, developed in cooperation with the PARD staff, shall be submitted by the developer. The park site plan will be reviewed and if acceptable approved by the Director.
- b. All proposed public park improvements must be shown on a site plan and/or construction plans unless the Director authorizes another method of approval. The proposed park improvements must also be reviewed and approved by the City's Director of Engineering.
- c. Detailed plans and specifications for proposed park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to the construction and installation of public improvements.
- d. All plans and specifications for the proposed park improvements shall meet or exceed the City's standards in effect at the time of the submission.
- e. If the park improvements are constructed on land that is being dedicated to, has already been dedicated to, and/or is owned by the City, then the developer shall provide at no cost to the City payment and performance bonds in the form approved by the City that identify the City as a Beneficiary in an amount equal to the greater of the park development fees due or the cost of the park improvements pursuant to Texas Government Code §§ 2253.001, *et seq.* The park improvements shall be completed, and final accepted by the City prior to plat recordation.
- f. The developer shall also provide to City, at no cost to City, a two-year maintenance bond that is equal in amount to fifteen percent (15%) of the construction cost of said park improvements. The developer shall also provide to City a manufacturer's letter certifying that any play structure, equipment, facilities, and safety surfaces were installed in accordance with the manufacturer's installation requirements.
- g. All manufacturers' warranties shall be provided to City, at no cost to City, for any park equipment installed in and upon the City's parkland as part of these improvements.
- h. Upon issuance of a Certificate of Completion and Acceptance, the developer shall warrant the park improvements for a period of two (2) years.
- i. The developer shall be liable for costs required to complete the Public Park Improvements if:
  - i. Developer fails to complete the park improvements in accordance with the approved plans; or
  - ii. Developer fails to complete any warranty work.

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- j. All park improvements shall be inspected by the City while construction is in progress, and when complete to verify all requirements have been satisfied.
  - k. Once the park improvements are constructed, and after the Director has accepted such improvements, the developer shall convey such park improvements to the City free and clear of any lien or other encumbrances.
  - l. The park improvements will be considered complete with a Letter of Completion and Acceptance from the City and will be issued after the following requirements are met:
    - i. Park improvements have been constructed in accordance with the approved plans; and
    - ii. Park improvements have been inspected and reviewed by PARD staff and determined to satisfy the terms, conditions and requirements under this Chapter; and
    - iii. Developer has provided City with a bills paid affidavit and such additional documentation as City may require to confirm that all of developer's contractors and materialmen have been fully paid; and
    - iv. Developer has provided City with all warranties and the required Maintenance Bond.

**Sec. 142-162. Credits for Private Amenities.**

1. Up to fifty percent (50%) of the total park development fee required by this article to be paid by a developer may be eligible for reimbursement if the developer provides private parkland and/or park-like amenities on the site situated within the property being subdivided as determined in the sole discretion of the Director. The remaining 50% of the park development fee is retained for deposit in the City's park development fund for the purpose of defraying the financial burden that new residential units impose on the City's existing public park system within the citywide park zone and the applicable geographical park zone as provided above in this article.
2. Private facilities eligible for credit are those outdoor park-like amenities typically found in McKinney's public parks that will substitute for the park improvements otherwise funded by a park development fee to meet the outdoor recreation needs of the development's residents. These park-like amenities might include by way of illustration, and not limitation, parkland (minimum size of 1 acre), playground equipment, shade structures, splash pads, "pick-up" basketball courts or volleyball courts, tennis courts, walking and jogging trails, and any associated lighting improvements.
3. The design of private park amenities must be reviewed and approved by the Director prior to the platting of the first unit within the subdivision.

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4. The amount of park development fee credit shall be based on actual out-of-pocket dollar costs that the developer incurred in providing the outdoor and/or indoor private park recreation improvements evidenced as follows:
    - a. The developer is required to submit all invoices and checks paid toward the construction of the private park-like amenities; and
    - b. The developer must allow PARD staff to conduct a site visit to verify the private park-like improvements.
  5. Yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulation ordinances shall not be included in any park development fee credit computation.
  6. Private park recreation improvements shall be owned by an incorporated nonprofit homeowners' association comprised of all property owners in the subdivision. The organization should operate under recorded land agreements through which each property unit owner in the subdivision is automatically a member, and each unit is subject to a charge for a proportionate share of expenses for maintaining the private park facilities.
  7. Should the homeowners' association fail to maintain the developer-provided private park facilities in a safe and clean condition, then each property owner agrees that the Director may access the provided private park facilities to operate, maintain and repair them. The costs of such maintenance, operations and repairs by the City shall be charged to the homeowners' association.
  8. Use of the private parkland and facilities shall be restricted for park and recreation purposes by a recorded covenant that runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the prior written consent of the City.
  9. Private park facilities must be similar or comparable to the facilities that would be required to meet public park standards and recreational needs as required per the City's development regulations and Parks Master Plan and other federal, state and local laws.
  10. All private park-like amenities must be constructed and accepted prior to the plat recordation of the same phase in which the private park improvements are located.
  11. Subject to the Director's approval, Senior/Independent Living developments and Affordable Housing developments (for which a park development fee is not required) may receive credits against their required payment of fees in lieu of dedicating parkland for that portion of the cost incurred in providing on-site private park amenities hereunder that exceeds one hundred percent (100%) of the amount of park development fees that would have been required for a similar development which is not excepted from the payment of park development fees.

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For example, a multi-family affordable housing development of ten (10) residential units could receive credits against their required payment of fees in lieu of dedicating parkland for those costs of providing on-site private park amenities that exceed the amount of park development fees for a multi-family development of the same size (ten residential units) – 10 units x \$1,600 per unit or \$16,000. In this scenario if the cost of the on-site private park amenities amounted to \$30,000 the multi-family affordable housing development could receive up to \$14,000 in credits applied against their required payment of fees in lieu of dedicating parkland.

**Sec. 142-163. Reimbursement for City Acquired Parkland.**

1. The City may from time to time acquire land for parks and develop and improve park facilities on such land in advance of actual or potential development. If the City acquires parkland and/or develops and improves park facilities thereon in advance of development, the City may require subsequent parkland dedications to be made in the form of paying a fee in lieu of parkland dedication only.
2. The fees paid in lieu of parkland dedication may, in the discretion of the Director, be used to reimburse the City for the cost(s) of such prior parkland acquisition. In addition, any park development fees collected may, in the discretion of the Director, be used to reimburse the City for the cost(s) of development and improvement of park facilities on such parkland in advance of actual or potential development.

**Sec.142-164. Affordable Housing Exemption.**

1. Notwithstanding any other provision contained in this article new residential dwelling units that are rented or sold to persons or households of low income shall receive a partial exemption from the parkland dedication and park development fee requirements set out in this article.
  - a. An affordable housing unit for the purpose of this article is a household at or below 120% of AMI.
  - b. In projects with a mix of market-rate and affordable housing units, only the affordable housing units shall receive this exemption.
  - c. For any affordable housing unit qualifying for an exemption, a covenant acceptable to the McKinney Housing and Community Development Department shall be recorded in the Collin County Deed Records, guaranteeing that the affordability criterion will be observed for a time period of at least fifty (50) years from the issuance of the final green tag or certificate of occupancy or a longer period of time if required by the construction or mortgage financing assistance program or rental subsidy program applicable to the affordable housing unit(s).
  - d. Should any qualifying affordable housing unit cease to operate as a qualifying affordable housing unit before the 50-year time period has

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expired, then the fee in lieu of parkland dedication and park development fee requirements for each said unit shall be paid to the City at the rate in effect at the time of permitting.

**Sec. 142-165. Appeal Process.**

1. Any decision under this article made by the Director may be appealed to the City's Zoning Board of Adjustment within thirty (30) days following the Director's decision. Filing an appeal shall not stay the required parkland dedication (and/or payment of fees in lieu of parkland dedication) or the payment and collection of the park development fee due.

**Sec. 142-166. Review and Indexing of Fees.**

1. The city shall review the park development fees established and the amount of parkland dedication required in this article at least once every five (5) years. Failure to timely commence or complete review by the City Council shall not invalidate this ordinance.
2. If the City fails to timely review the park development fees any person who has paid a park development fee may present a written request that the City perform the review of the park development fees within 60 days after the date of the request. If the City finds it is late performing such review, the City will cause the review of the park development fees to commence within 60 days after the date of the request and continue until completion.
3. The park development fee shall be updated annually in the interim five-year period as part of City of McKinney's annual budgeting process in accordance with the U.S. Department of Labor Statistics Dallas-Fort Worth-Arlington Consumer Price Index for All Urban Consumers.

**Sec 142-167. Right to Refund.**

The City shall account for all fees paid in lieu of parkland dedication and all park development fees paid under this article with reference to the individual plat(s) involved. Any fees paid for such purposes should be encumbered or expended by the City within fifteen (15) years from the date received by the City for acquisition, development and/or improvement of parks as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the landowners of the property on the expiration of such period shall be entitled to a prorated share of such sum without interest, computed based on the number of dwelling units in the residential development for which such unencumbered and unexpended park related fees were paid. The owners of such property must request such refund within one (1) year of entitlement, in writing. Failure to timely submit the required application for refund shall constitute an absolute waiver of any right to the refund.

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**Sec 142-168. Severability.**

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions and, to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would subsequently be declared invalid or unconstitutional.

**Sec. 142-169. Penalties, sanctions and redeterminations.**

- (a) Requirements to be satisfied prior to development. It shall be unlawful for any person who is required to convey land or pay money in lieu of dedicating parkland and pay park development fees as required by this article, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any residential development to which this article applies until the required conveyance of parkland or payment of money in lieu of dedicating parkland and the payment of park development fees is made to the city in accordance with this article.
- (b) Permits and services to be withheld. No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any residential development to which this article applies until the required conveyance of parkland or payment of money in lieu of dedicating parkland and the payment of park development fees is made to the city in accordance with this article.
- (c) Redetermination of requirements for proposed additional dwelling units. After the city council has made a determination of the requirements of this article, or after the requirements of this article have been met, based upon the proposed number of residential dwelling units for any land to which this article applies, any person who desires to construct a number of dwelling units in excess of the number of dwelling units for which the requirements of this article were determined or met must submit to the city council a revised zoning proposal for additional dwelling units for the residential development. Once the city council has approved a zoning ordinance increasing the number of dwelling units allowed on a platted lot or within a residential subdivision, the developer shall either convey the additional parkland through a plat or replat or shall pay a fee in lieu of dedicating parkland and pay additional park development fees for the additional dwelling units at the issuance of the building permits. Where a payment of money in lieu of dedicating parkland was originally made to meet the requirements of this article, the person proposing to construct additional dwelling units may be required to convey parkland for all or part of the development. In such case, after the required conveyance is made, the payments, or portion thereof, previously made, which are satisfied by the dedication of parkland shall be returned by the city.

**Sec. 142-170. Penalties.**

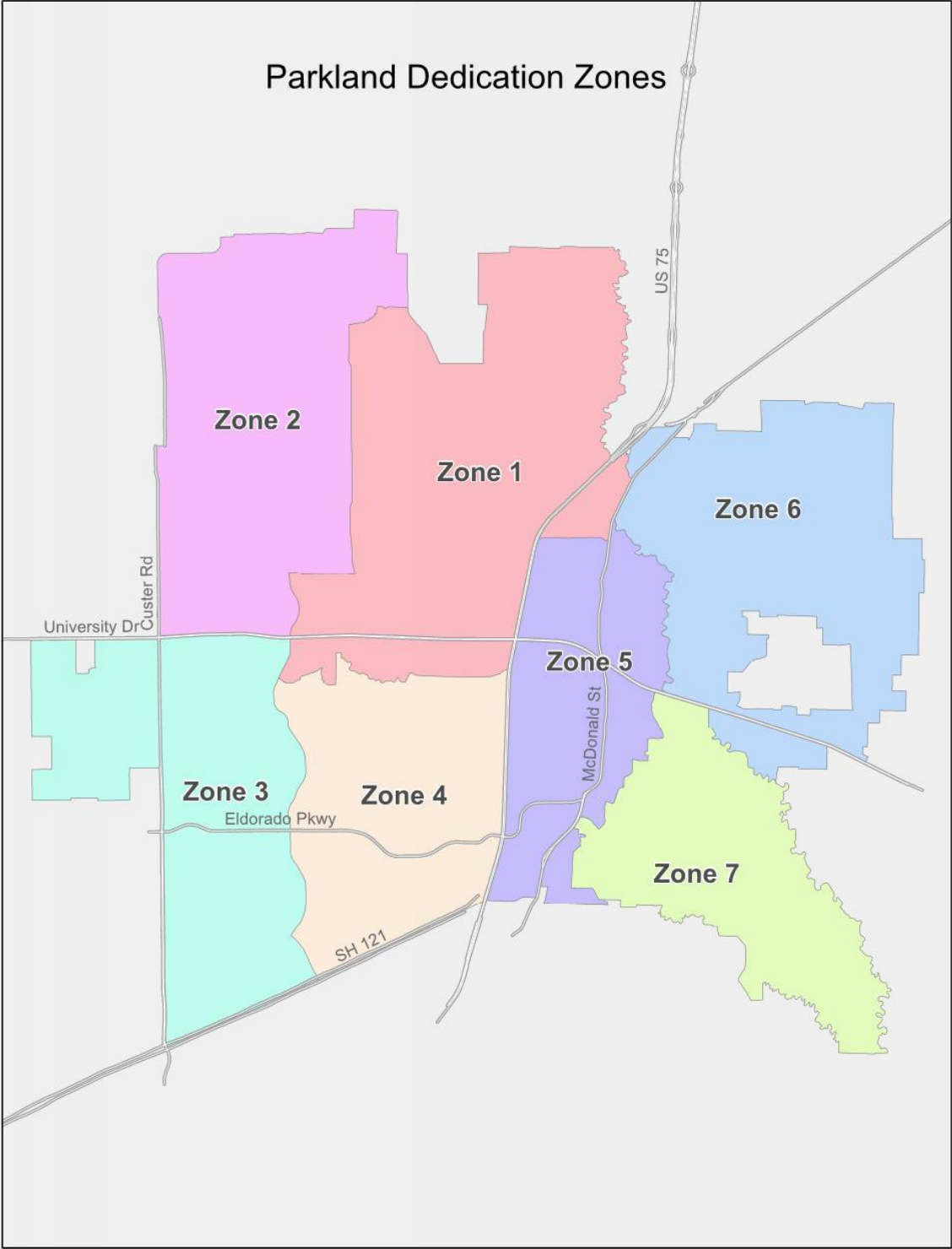
Any person violating any of the provisions of this article shall, upon conviction, be fined a sum not exceeding \$500.00; and each day and every day or portion of a day that the provisions of this article are violated shall constitute a separate and distinct offense. This

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penalty is in addition to and cumulative of any other remedies as may be available at law and equity.



**Appendix A**



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## Appendix B

### McKinney Park Dedication Calculations for Developed Parks.

#### Fee-in-lieu of Land

Total developed neighborhood and community park acreage: 630.36 (32%)  
Total undeveloped/passive park acreage: 1,311.82 (68%)  
Total park acreage 1,942  
Total number of dwelling units: SFU (3 persons per household): 54,931  
MFU (2.4 persons per household): 16,911  
71,842

Ratio of MFU/SFU persons per household:  $2.4/3.0 = .8$

Dwelling units per acre of parks:  $71,842/1,942 = 37$

Assume FMV of an acre of land in the subdivision is \$100,000.

Average fee-in-lieu:  $\$100,000/37 = \$2,703$

Adjust for .8 ratio of MFU/SFU

**SFU:  $\$2,703 \times 1.1 = \$2,973$  per unit**      **MFU:  $\$2,703 \times .9 = \$2,433$  per unit.**

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#### Park Development Fee

Recent park construction bids for active parks:

Cottonwood Park:	3.59 acres	\$2.57 million
Finch Park:	28.08 acres	\$2.02 million
George Webb Park:	<u>11.22 acres</u>	<u>\$2.16 million</u>
Total:	42.89 acres	\$6.75 million

Average development cost per acre for active/developed parks:  $\$6.75/42.89 = \$157,379$ .

Average development cost per acre for passive/undeveloped parks at (say) 15% = \$23,609

Weighted average development cost per acre  $[(157,379 \times 630.36) + (23,609 \times 1311.82)] / 1942 = \$67,032$

Average development cost per dwelling unit:  $\$67,032/37 = \$1,812$

Adjust for .8 ratio of MFU/SFU

**SFU:  $\$1,812/1.1 = \$1,993$  per unit**      **MFU:  $\$1,812/.9 = \$1,631$  per unit**

**TOTAL FEE: SFU ( $\$2,973 + \$1,993$ ) = \$4,966.      MFU: ( $\$2,433 + \$1,631$ ) = \$4,064**

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## **Assumptions**

- 1). The draft ordinance states that the land value will be “the fair market value per acre of land that is being subdivided). This value will vary among sites. For the purpose of illustration only, the land value in the calculation is arbitrarily shown as \$100,000 per acre.
- 2). The McKinney Planning Department supplied the person per household numbers for single- family (3.0) and multi-family (2.4) dwellings.
- 3) The park development cost for passive/undeveloped parks was arbitrarily assumed to be 15% of the cost of developing active parks.