

PREPARED BY:

**CITY OF NAPERVILLE
LEGAL DEPARTMENT
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RETURN TO:

**CITY OF NAPERVILLE
CITY CLERK'S OFFICE
P.O. BOX 3020
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60566-7020**

PC Case # 16-1-032

ORDINANCE NO. 18-

**AMENDING SECTION 5 (DEDICATION OF PARK LANDS AND
SCHOOL SITES OR FOR PAYMENTS OR FEES IN LIEU OF) OF
CHAPTER 3 (REQUIRED IMPROVEMENTS) OF
TITLE 7 (SUBDIVISION REGULATIONS) OF
THE NAPERVILLE MUNICIPAL CODE
PERTAINING TO PAYMENTS OR FEES IN LIEU OF
DEDICATION OF PARK LANDS AND SCHOOL SITES**

WHEREAS, the City of Naperville, in its authority as a Home Rule community, has enacted Municipal Code Regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, on February 16, 2016, the City Council initiated amendments to Title 7 (Subdivision Regulations) of the Naperville Municipal Code aimed at improving existing processes by updating the ordinance to help ensure its effectiveness while specifically reviewing the timing of when cash-in-lieu of land payments should occur; and

WHEREAS, the City of Naperville has given general public notice and conducted a public hearing on April 6, 2016 before the Planning and Zoning Commission with respect to the proposed amendments, as required by law; and

WHEREAS, the Planning and Zoning Commission recommended approval of the proposed amendments on April 6, 2016.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority, as follows:

SECTION 1: The recitals set forth above are incorporated herein.

SECTION 2: The amendments to this ordinance shall be effective upon recording and applicable to all prospective development within the City. Notwithstanding the foregoing, an owner or developer of a development or project approved prior to the effective date of this text amendment may submit a written request to the City's Director of Transportation, Engineering and Development (T.E.D.) requesting that the land cash dedication payment assessed on such development or project be made at time of building permit instead of prior to recordation of the final plat of subdivision. The Director of T.E.D. shall bring the request forward to the City Council for review and consideration with an appropriate ordinance to allow for payment of the land cash dedication payment to be made at time of building permit subject to the requirement that the land cash dedication payment ordinance in effect at the time of issuance of each building permit shall apply and subject to the requirement that the owner or developer reimburse the City any out-of-pocket costs associated with processing the request, including but not limited to publication of a proposed amendment to an annexation agreement, if necessary.

SECTION 3: Section 5 (Dedication of Park Lands and School Sites or for Payments or Fees in Lieu of) of Chapter 3 (Required Improvements) of Title 7 (Subdivision Regulations) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

7-3-5: - DEDICATION OF PARK LANDS AND SCHOOL SITES OR FOR PAYMENTS OR FEES IN LIEU OF:

As a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development, each subdivider or developer will be required to dedicate land for park and recreational purposes and land for school sites, to serve the immediate and future needs of the residents of the development, or to pay a cash contribution in lieu of actual land dedication as provided herein, or a combination of both, based on the recommendation of the public body which will be the recipient of the contribution, but subject to final determination of the City Council, ~~in accordance with the following criteria and formula:~~ Said dedication shall be made in accordance with the provisions, criteria and formulas set forth herein. Donation of land and/or payment of cash in lieu thereof, or a combination of both, is also referenced herein as a “Land-Cash Contribution”.

It is recognized that fair market value and population density, age distribution and local conditions change over the years, and that the specific formula for the dedication of land, or the payment of fees in lieu thereof, as stated herein, is subject to periodic review and amendment as necessary.

1. Criteria For Requiring Park And Recreation Land Dedication:

1.1. Requirements and Population Ratio: The ultimate density of a proposed development shall bear directly upon the amount of land required for dedication. The total requirement shall be eight and six-tenths (8.6) acres of land per one thousand (1,000) of ultimate population. The required eight and six-tenths (8.6) acres may be allocated as provided herein based upon the following criteria:

	<u>Types Of Recreation Area</u>	<u>Size Range</u>	<u>Minimum Acres Per 1,000 People</u>
a)	Mini or vest pocket park	0.20 acres	Not applicable
b)	Playlot	0.5 to 2.9 acres	0.5
c)	Neighborhood playground	3 to 4.9 acres	1.5
d)	Neighborhood park and school	5 acres per elementary school to 6.9 acres per junior high school	Not applicable

e)	Neighborhood park	7 to 14.9 acres	1.5
f)	Playfield	15 to 40 acres or more	1.5
g)	Regional community park	40 to 100 acres or more	4.00

The ultimate density of a proposed development shall be calculated in accordance with ~~Subsection 7-3-5:4 of this Section.~~

1.2. Location: The comprehensive park and recreation plan and/or the "Standards by Types of Recreation and Park Area" as adopted by the Naperville Park District and amended from time to time shall be used as a guideline in locating sites. A park site adjoining all elementary school sites of not less than five (5) acres shall be considered a requirement. A central location which will serve equally the entire development is most desirable. In large developments these sites can be located throughout the development according to established standards for park area distances.

1.3. Credit For Private Open Spaces And Recreation Areas: When subdividers or developers provide their own open space for recreation areas and facilities, it has the effect of reducing the demand for local public recreational services. Depending on the size of the development, a portion of the park and recreational area in subdivisions or planned unit developments may, at the option of the City Council, be provided in the form of "private" open space in lieu of dedicated "public" open space. The extent of same shall initially be determined by the ~~City Council~~ City's Zoning Administrator, based upon the needs of the projected residents and in conformance to the total park and recreation land for the general area.

In general, a substitution of private open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment, by the developer as part of his obligation. Detailed plans of such areas, including specifications of facilities to be installed, must be approved by the City, and before any credit is given for private recreation areas, the subdivider or developer must guarantee that these private recreation areas will be permanently maintained for such use by the execution and recordation of appropriate legal documents approved by the City Attorney. ~~Private "swimming clubs" are included in this provision. A copy of "Suggested Criteria for Swimming Pool Development" as adopted by the Naperville Park District and amended from time to time shall be used as a guideline by the developer.~~ When an adjustment for private recreation areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision or planned unit development and then subtract the credit to be given.

1.3.1. Any objection to the determination made by the City's Zoning Administrator as provided in Section 7-3-5:1.3 shall be made and processed as provided in Section 7-3-5:12.

1.4. Any land or improvement used to satisfy the minimum Outdoor Common Area requirement for planned unit developments as set forth in Section 6-4-3:3, including, but not limited to, any credit for private open space as set forth above, may not be used as credit to satisfy toward any Land-Cash Contribution provided for herein.

2. Criteria For Requiring School Site Dedication:

2.1. Requirement And Population Ratio: The ultimate number of students to be generated by a subdivision or planned unit development shall bear directly upon the amount of land required to be dedicated for school sites. The land dedication requirement shall be determined by obtaining the ratio of: 1) the estimated number of children to be served in each such school classification from the subdivision or PUD over the, 2) maximum recommended number of students to be served in each such school classification as stated herein, and then applying such ratio to the, 3) said minimum recommended number of acres for a school site of each such school classification as stated herein. The product thereof shall be the acres of land deemed needed to have sufficient land for school sites to serve the estimated increased children in each such school classification. The estimated number of children to be served in each school classification from the subdivision or PUD shall be calculated in accordance with ~~Subsection 7-3-5:4 of this Section.~~

2.2. School Classification And Size of School Site: Classifications and size of school sites within the City shall be determined in accordance with the following criteria:

School Classification Grades	Maximum Number Of Students For Each Such School Classification	Minimum Number Of Acres Of Land For Each School Site For Such Classification
Elementary schools, grades kindergarten through 5th (K—5)*	650 students	15 acres
Junior high schools, grades 6th through 8th (6—8)*	1,200 students	25 acres
High schools, grades 9th through 12th (9—12)	3,000 students	80 acres

*Note: * There may be instances when a grade may move to a different school classification.*

2.3. Location: The comprehensive school plan and/or the standards adopted by the affected school district shall be used as a guideline in locating sites.

3. Criteria For Requiring a Contribution in Lieu of Park and School Sites: The City shall require the subdivider or developer to pay a cash contribution in lieu of or in combination with the land dedication required when so determined by the public body that would be the recipient of the land, subject to final City approval.

The cash contributions in lieu of park and recreation land dedication shall be ~~held in trust by the City, or other public body designated by the City,~~ made by the subdivider or developer to the City and then transferred by the City to the Naperville Park District which shall hold such contribution solely for the acquisition of park and recreation land as hereinbefore classified, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the improvement of other existing local park and recreation land which already serves such needs.

The cash contributions in lieu of school sites shall be ~~held in trust by the City, or other public body designated~~ paid by the developer to the City and then transferred by the City, ~~to the appropriate school district which shall hold such contribution in trust to be used~~ solely for use in the acquisition of land for a school site to serve the immediate or future needs of children from that subdivision or development and/or for the improvement of such land, or for the improvement of any existing school site which already serves such needs.

Improvement under this Section shall be liberally construed and shall include, but shall not be limited to, the development of: parking lots; sidewalks; traffic signals; ~~arterial streets; collector streets;~~ internal roadways; connections with sewer, water and electrical lines; and streetlights, including the City's system development charge; playgrounds; recreation grounds; and athletic fields. Improvement shall also include excavation and site preparation, and the purchase of any material, goods or equipment necessary to said development and construction. Improvement shall further include the construction of buildings; additions to existing school buildings; technological infrastructure; remodeled or renovated noninstructional spaces in classrooms; and the purchase of prefabricated classroom units to be used at a school site. If any portion of a cash contribution in lieu of park and recreation land dedication, or cash contribution in lieu of school site is not expended for the purposes set forth herein within ten (10) years from the date of receipt, it shall be refunded to the owners of record of all lots, except lots dedicated pursuant to the provisions of this Section, in the subdivision for which such contribution was made. The refund shall be paid to the person who is the owner of record on the day when the refund is made. The amount of the refund due to each lot owner shall be equal to the amount of the original contribution, together with accrued interest thereon, divided by the total number of lots in the subdivision (excluding only those lots which were dedicated pursuant to this Section) for which such contribution was made.

Any entity to which the City is to convey a Land-Cash Contribution as provided herein (“Receiving Entity”) shall have first entered into a valid and enforceable intergovernmental agreement with the City in a form approved by the City Attorney which shall include, but not be limited to, provisions governing the process by which land-cash contributions are conveyed or transferred by the City and received and used by the Receiving Entity, and which shall further provide that said entity shall defend, indemnify, and hold the City harmless for any claims, suits, demands, judgments, or liability of any kind (except those arising out of independent negligent acts or omissions or willful misconduct by the City relative to payment of land-cash funds) arising out of or in any way related to any land-cash payment and/or conveyance of land, or the use thereof, and from any challenge based on the provisions set forth or referenced in 7-3-5 and each part thereof, as amended from time to time. Further, said intergovernmental agreement shall provide for the Receiving Entity to be responsible for any refunds to be made as a result of non-use of land-cash land or funds, any court ruling, or for any other reason whatsoever subject to the Receiving Entity’s right against third parties to assert its rights to any funds sought to be refunded.

3.1.Fair Market Value: The cash contributions in lieu of land shall be based on the fair market value of the acres of land in the area improved as specified herein, that otherwise would have been dedicated as park and recreation and school sites. It has been determined that the present fair market value of such improved land in and surrounding the City is three hundred eighteen thousand three hundred dollars (\$318,300.00) per acre for school sites and three hundred twenty-three thousand six hundred dollars (\$323,600.00) for park sites and such figures shall be used in making any calculation herein unless the subdivider or developer files a written objection thereto. Objections shall be made and processed as provided in Section 7-3-5:12. In the event of any such objection the developer shall submit an appraisal showing the fair market value of such improved land in the area of his development or other evidence thereof and final determination of said fair market value per acre of such improved land shall be made by the City Council based upon such information submitted by the subdivider or developer and from other sources which may be submitted to the City Council by the park district, school district or others.

4. Density Formula:

4.1.School Dedications And Contributions: The following table of population density represents current and short range trends in family size for a new construction and shall be used in calculating the amount of required dedication of acres of land for school sites or the cash contribution in lieu of unless a written objection is filed thereto by the subdivider or developer. A written objection shall be submitted and processed in accordance with Subsection 7-3-5.4.3:12 of this Section.

POPULATION PER UNIT (SCHOOL DONATION)—NAPERVILLE, ILLINOIS

Type Of Unit	<u>Preschool 0-4 Years</u>	<u>Elementary Grades K-5 5-10 Years</u>	<u>Middle School Grades 6- 8 11-13 Years</u>	<u>TOTAL Grades K-8 5-13 Years</u>	<u>High School Grades 9-12 14-17 Years</u>	<u>Adults 18 Years ±</u>	<u>Total Per Dwelling Unit</u>
Detached Single-Family:							
2 bedroom	0.120	0.411	0.138	0.549	0.222	1.856	2.746
3 bedroom	0.268	0.486	0.153	0.639	0.135	1.913	2.955
4 bedroom	0.371	0.702	0.259	0.	0.242	1.985	3.532
5 bedroom	0.386	0.590	0.236	0.826	0.242	2.191	3.645
Attached Single-Family:							
2 bedroom	0.206	0.084	0.057	0.141	0.030	1.318	1.697
3 bedroom	0.214	0.104	0.039	0.143	0.050	1.966	2.374
4 bedroom	0.183	0.271	0.106	0.377	0.105	2.102	2.767
5 bedroom ¹	—	—	—	—	—	—	—
Apartments:							
Efficiency*	—	—	—	—	—	1.400	1.400
1 bedroom	0.058	0.032	0.012	0.044	0.013	1.653	1.710
2 bedroom	0.129	0.064	0.031	0.095	0.038	1.744	2.007
3 bedroom	0.199	0.115	0.073	0.188	0.083	2.005	2.475

NOTE: There are only three (3) significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one category is provided. The same is true with apartments; thus only one category.

1 Indicates no yield data was generated due to a lack of population or no (or very few) residential units in the sample. Thus it was not possible to derive useful yield data. The adult population yield statistic has been derived from the 2000 table of estimated ultimate population.

4.2.Park Dedications And Contributions: The following table of population density represents current and short-range project trends in family size for new construction and shall be used in calculating the amount of required dedication of acres of land for park sites or the cash contribution in lieu of unless a written objection is filed thereto

by the subdivider or developer. A written objection shall be submitted and processed in accordance with ~~Subsection 7-3-5:4.312 of this Section.~~

POPULATION PER UNIT (PARK DONATION)—NAPERVILLE, ILLINOIS

Type Of Unit	Preschool <u>0-4 Years</u>	Elementary Grades K-5 <u>5-10 Years</u>	Junior High Grades 6-8 <u>11-13 Years</u>	TOTAL Grades K-8 <u>5-13 Years</u>	High School Grades 9- 12 <u>14-17 Years</u>	Adults <u>(18— up)</u>	Total Per Unit
Detached Single-Family:							
2 bedroom	0.127	0.327	0.102	0.429	0.118	1.779	2.453
3 bedroom	0.244	0.440	0.179	0.618	0.177	1.892	2.930
4 bedroom	0.348	0.522	0.235	0.758	0.265	2.116	3.486
5 bedroom	0.333	0.533	0.262	0.795	0.279	2.344	3.750
Attached Single-Family:							
2 bedroom	0.072	0.091	0.044	0.135	0.080	1.610	1.897
3 bedroom	0.157	0.178	0.060	0.238	0.113	1.746	2.253
4 bedroom	0.217	0.358	0.154	0.511	0.198	2.127	3.053
Apartments:							
Efficiency*	—	—	—	—	—	1.210	1.210
1 bedroom	0.015	0.033	0.013	0.046	0.013	1.691	1.764
2 bedroom	0.037	0.063	0.028	0.091	0.030	1.748	1.906
3 bedroom	0.037	0.152	0.091	0.243	0.083	2.330	2.692

NOTE: There are only three (3) significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one category is provided. The same is true with apartments; thus only one category.

* Indicates no yield data was generated due to a lack of population or no, (or very few) residential units in the sample. Thus it was not possible to derive useful yield data. The adult population yield statistic has been derived from the 2000 table of estimated ultimate population.

Ehlers & Associates, Inc., November 2000

4.2.1. Assisted living developments: The definition of “Assisted living establishment” as established by the Illinois Department of Public Health,

and as amended from time to time, shall serve as the definition of assisted living developments herein.

The Land-Cash Contribution for the Park District related to assisted-living developments shall be subject to a reduction of the Park District dedication fee. The cash-in-lieu fee shall be determined by the number of beds provided in the development divided by four times the Efficiency Rate per the table contained in Section 7-3-5:4.2. Said reduction shall not preclude consideration of further reductions of Land-Cash Contributions in accord with Section 7-3-5:1.3 above.

The Land-Cash Contribution for the School District shall be established as provided herein but deemed waived as to assisted-living developments.

- 4.2.2. Age restricted developments: Age restricted developments are defined in accordance with the federal Fair Housing Act as amended from time to time.

The Land-Cash Contribution for the Park District related to age restricted developments shall be calculated based upon a population generation rate of 1.8 persons per unit. If the development ceases to be age-restricted, the required park donation shall be recalculated using the standard population generation rate as per the ordinance in place at the time of age-restriction removal. The developer, and/or his or her assignees, shall be required to pay the difference between the initial payment and the recalculated payment within 60 days of assessment, unless otherwise extended by the Zoning Administrator.

The Land-Cash Contribution for the School District shall be established as provided herein but deemed waived as to age restricted developments. Subject to review and approval by the City Attorney, covenants regarding age restriction and penalties for violation of such restrictions, as generally outlined in Subsection 7-3-5:4.2.2.1, shall be recorded prior to the City granting final subdivision plat approval.

- 4.2.2.1. Covenants ensuring the integrity and enforceability of age restrictions in an age-restricted development shall include, but not be limited to the following concepts:

4.2.2.1.1. All owners or occupants of property within an age-restricted development will strictly comply with the specified age restrictions.

4.2.2.1.2. Any home owners association (“HOA”) formed for the subdivision shall create and consistently use a process designed to monitor and enforce age restriction requirements;

4.2.2.1.3. Violations of the covenants shall cease;

4.2.2.1.4. Penalties for violation of specified age-restrictions shall apply to the student generator and the HOA.

4.2.2.1.4.1. Student Generator Penalties: If the owner of any dwelling unit violates or attempts to violate this section by enrolling or attempting to enroll or assisting in any way in enrolling a child or children in the schools of the School Districts (“Student Generator”), then said Student Generator shall be liable (i) to the School District for the cost of educating any child or children so enrolled by the Student Generator from the development area in an amount determined in accordance with Section 10-20.12a of the Illinois School Code (105 ILCS 5/10-20, 12a) and (ii) to the School District a fine in the amount of three times the cost of educating any child or children enrolled as provided in (i) or \$50,000, whichever is greater, and (iii) for all reasonable costs of any enforcement action, including litigation expenses, title reports, and attorney’s fees incurred as a result of such enforcement. All costs and fines, as specified herein, to be paid by the Student Generator shall be recorded as a lien against the dwelling unit(s) of the Student Generator, in addition to any other remedies available by law for the collection of said costs and fines.

4.2.2.1.4.2. Homeowners Association Penalties: It shall be the right, obligation and duty of the Homeowners Association (“HOA”) to enforce the restrictions

contained in this section in a proactive and diligent manner. The HOA Board shall adopt, implement and enforce rules, regulations and procedures to ensure that at all times the restrictions contained herein are followed. At all times, the HOA shall have an obligation to cooperate with the School District and City in enforcement efforts pursuant to this Section. Within ninety (90) days of written notification to the HOA by the School District or the City of Naperville that a violation of the restrictions set forth in this Section may have occurred, the HOA shall commence an enforcement proceeding against the Student Generator, and shall diligently pursue the proceeding. If the HOA fails to commence such a proceeding within said time period and either the City and/or School District commences such a proceeding, or if the HOA commences a proceeding, but fails to diligently pursue the same, then the HOA shall pay a fine of \$50,000 to either the School District or the City and also be responsible to reimburse either the City or the School District for the costs and expenses of said their bringing such litigation including attorney's fees.

4.2.2.1.5. A provision that persons under the age of 22 may be guests in age restricted premises between May 15 and August 10 of each year, but that during the remainder of the year persons under the age of twenty-two may visit a resident's home for a maximum of thirty (30) days of which no more than fourteen (14) may be consecutive.

4.2.2.2. By virtue of establishing a development as age restricted and accepting the benefits provided herein, the developer and their successors and assigns waive any right to challenge the school and park donation requirements if payment is ever required.

4.3. ~~Demographic Study: In the event a subdivider or developer files a written objection to the table of estimated ultimate population listed herein, the subdivider or developer shall submit its own demographic study showing the estimated population to be generated from the subdivision or planned unit development, including a detailed explanation of the methodology used in developing an alternative generation table. The objection shall be considered as a request for a deviation to the subdivision regulations~~

~~and will be processed in accordance with the procedures established under Subsection 7-1-83-5:12 of this Title.~~

~~The demographic study shall be reviewed by the school district or park district which shall be authorized to submit a written statement of acceptance or rejection of the objection to the City Council within twenty one (21) days of the submittal of the objection to the City. Final determination of the density formula to be used in such calculations shall be made by the City Council based upon its review of the written comments submitted by the school and park district in response to such objection.~~

~~It is recognized that population density, age distribution and local conditions change over the years, and the specific formula for the dedication of land, or the payment of fees in lieu thereof, as stated herein, is subject to periodic review and amendment as necessary.~~

5. Procedure For Making Contributions:

5.1.Land Contributions: Prior to the time of recording any plat or development agreement, the school and park donations, if in the form of land, shall be made in accordance with Subsection 7-3-5:9 of this Section. For all developments other than PUDs, the ultimate population and the estimated number of children to be served in each school classification of the subdivision shall be calculated on the basis of a mix of bedrooms by dwelling unit type for each residential zoning district, determined by the City on the basis of the current trends resulting from actual permits issued in similar developments. For the purposes of estimating the land donation requirement in PUDs, the bedroom mix used for single-family detached dwelling units shall be based upon the bedroom mix for that zoning district which is most representative of the lot sizes approved, as established by the City on the basis of current trends resulting from actual building permits issued for such representative zoning district; and the bedroom mix used for single-family attached and multiple-family dwelling units shall be based upon the number of units and mix of bedrooms as indicated on the approved final PUD plat. Such contribution shall then be subject to cash adjustment upon issuance of the final building permit in the platted area in accordance with the following procedures: Upon the issuance of the final building permit within the platted area, the City shall calculate the difference between the contribution or deposit made and the actual contribution required, based upon the actual building permits issued and the Land-Cash Contribution provisions then in effect. The City shall then promptly invoice the developer for the difference in the case of a shortfall in the contribution, and shall invoice the public body which received the Land-Cash Contribution for the difference

in the case of an overage. The party being invoiced shall make payment to the City within thirty (30) days of invoice.

5.2. Cash In Lieu Of Land Contributions: The amount of cash to be donated by the ~~petitioner~~ developer in lieu of donating land for school or park purposes shall be determined by and paid in one of the following two ways: 1) Payment of an “Estimated Lump Sum” prior to recordation of the final plat of subdivision or final plat of a planned unit development, or 2) Payment “Per Permit” at the time each building permit in the subdivision or planned unit development is issued. ~~applying the cash calculation set forth in Section 7-3-5 of this Title at the time the final plat is presented to the City Council for approval. Contributions of cash in lieu of land shall be made by depositing, upon approval of the final plat or development agreement, an estimated amount based upon the required cash in lieu contribution resulting from the following bedroom mixes:~~

5.2.1. Estimated Lump Sum Payment: Under the Estimated Lump Sum Payment option, an estimated payment shall be made by the developer prior to recordation of the final plat of subdivision or final plat of a planned unit development (“PUD”) based upon the land cash assessment determined at the time of City Council approval thereof based on the bedroom mixes set forth below; a credit shall be given for any existing structure

BEDROOM MIX

<u>Type of Residential</u>	<u>Bedroom Mix</u>
<u>Single-Family detached dwellings</u>	<u>Three (3) bedroom mix throughout the development</u>
<u>Single Family attached and multiple family dwellings other than apartments</u>	<u>Two (2) bedroom mix except that the actual bedroom mix shall be used for an approved PUD.</u>
<u>Apartments</u>	<u>The mix shall be based upon fifty percent (50%) of the dwelling units being one bedroom and fifty percent (50%) being two (2) bedroom units, except that the actual bedroom mix shall be used for an approved PUD.</u>

~~5.2.1 For single family detached dwellings, a three (3) bedroom mix throughout the development.~~

~~5.2.2 For single family attached and multiple family dwellings other than apartments, a two (2) bedroom mix except that the actual bedroom mix shall be used for an approved PUD.~~

5.2.3 For apartments, the mix shall be based upon fifty percent (50%) of the dwelling units being one bedroom and fifty percent (50%) being two (2) bedroom units, except that the actual bedroom mix shall be used for an approved PUD.

5.2.1.1. Adjustments to the Estimated Lump Sum amount shall be made at time of issuance of each building permit within the platted area. If a residence has more or less bedrooms than the number used to calculate the deposit under Section 7-3-5:5.2.1 of above, an adjustment in the cash in-lieu charge based upon the actual bedroom mix shall be made by an additional charge to the individual or entity seeking a building permit or a by a refund from the entity which received the Land-Cash Contribution.

5.2.2. Per Permit Payment: Under the Per Permit payment option, after a final subdivision or PUD plat has been approved any individual or entity seeking a building permit for a residence pays the City a Land-Cash payment -based on residence type and actual number of bedrooms identified in the building permit submitted to the City; under this option no credit shall be given for any existing structure. Payment shall be made prior to issuance of said building permit and shall be based upon the Land-Cash provisions in effect at the time of issuance of the permit.

5.2.3. Notation of Land-Cash Payment Option on Final Subdivision Plat: The option elected by the developer as to payment of the Land-Cash Contribution under either Subsection 5.2.1 or 5.2.2 above shall be clearly noted on the final plat of subdivision and final planned unit development (PUD) plat if applicable, submitted to the City Council for approval in order to provide notice to future property owners and to facilitate accurate collection of land-cash payments.

~~5.3. Adjustment, Cash In Lieu Charge: Upon the issuance of a building permit within the platted area for a residence having more or less bedrooms than the number used to calculate the deposit under Subsection 7-3-5:5.2 of this Section, an adjustment in the cash in lieu charge based upon the actual bedroom mix shall be made by an additional charge or refund.~~

6. Reservation Of Additional Land: Where the comprehensive plan of the City calls for a larger amount of park and recreational land or school sites in a particular proposed subdivision or planned unit development than the developer is required to dedicate, the land needed beyond the developer's contribution shall, if so determined by the City Council, be reserved for

subsequent purchase by the City or other public body designated by the City provided that such acquisition is made within one year from the date of approval of the final plat.

7. Combining With Adjoining Developments: For all subdivisions and planned unit developments, public open space or a school site which is to be dedicated should, where possible, be combined with dedications from adjoining developments in order to produce usable recreation areas or school sites without hardship on a particular developer.
8. Topography And Grading: The slope, topography and geology of the dedicated site as well as its surroundings must be suitable for its intended purposes and may not include storm water facilities unless agreed to by the District. Grading on sites dedicated for park and recreational uses shall not differ greatly from surrounding land.
9. Improved Sites: All sites shall be dedicated in a condition ready for full service of electrical, water, sewer and streets (including enclosed drainage, streetlights, and curb and gutter) as applicable to the location of the site, or acceptable provision made therefor. The sidewalks normally included within the definition of "improved sites" may be delayed due to the delay time between dedication of any such school sites and construction of school facilities thereon.
10. Title To Sites: Within, but not earlier than, thirty (30) days of receipt of written notification from the school and/or park district that the land to be transferred under the Land-Cash Code provisions is in acceptable condition, the subdivider or developer shall transfer title to said site ~~All sites shall be conveyed~~ to the City either by warranty or trustee's deed. The subdivider or developer shall be responsible for conveying good, merchantable title to such sites, and shall be responsible for payment of all real estate taxes to the date of conveyance, including any agricultural rollback taxes which might be extended or levied against such sites, for any tax years or periods prior to the time of conveyance.
11. Sale Of Land; Proceeds: When, in the opinion of the unit of local government holding title to any parcel of land dedicated under this Chapter, any such parcel has become unnecessary or unsuitable or inconvenient, such parcel may be sold as provided by applicable statutory authority and the proceeds shall be held ~~in trust~~ by said unit of local government, solely for such uses as are provided for in ~~Subsection 7-3-5.3 of this Section~~, and said proceeds shall be subject to the ten-year expenditure requirements from and after the date when said land is converted to cash proceeds.
12. Objections:
 - 12.1. Any objection to as to the accuracy of the population generation tables, the fair market land values, or any other matter, including but not limited to any determination

or calculation made pursuant to this Section (“Objection”) must be made by the subdivider, developer, owner of the property, Park District or School District (“Objector”) prior to approval of the final plat of subdivision by the City Council. Upon approval of the final plat of subdivision by the City Council, any and all Objections shall be deemed waived.

12.2. Objections must be made in writing and be filed with the Zoning Administrator and sent to the applicable Park District and School District (“Impacted Parties”). The written Objection must specify the Land Cash Dedication provision(s) being challenged and the specific reasons therefor, and shall include all studies and other documentation (“Objector’s Documentation”) which the Objector desires the Zoning Administrator to consider in support of the Objection.

12.2.1. In the event an Objector files an Objection to the table of estimated ultimate population listed herein, at the time of filing the Objection, and as part of the Objector’s Documentation, the Objector shall submit its own demographic study showing the estimated population to be generated from the subdivision or planned unit development, including a detailed explanation of the methodology used in developing an alternative generation table.

12.2.2. If only a portion of a generation table is objected to, the Zoning Administrator may, at her discretion, require the Objector to provide additional analysis and documentation with respect to other portions of the generation table which the Zoning Administrator deems to be related or impacted by the changes being requested by the Objector. The same shall be added to the Objector’s Documentation.

12.3. Any Impacted Parties may submit a response to the Objection and written documentation in support of or in opposition to the Objection to the City’s Zoning Administrator (“Impacted Party Documentation”) within twenty-one (21) days of receipt by the City of the Objection and Objector’s Documentation.

12.4. The Zoning Administrator shall review and evaluate the Objector’s Objection and the Objector’s Documentation, and shall also review the Impacted Parties’ responses and Impacted Party Documentation, if any. The Zoning Administrator may seek additional information, documentation, or clarification from the Objector and/or Impacted Parties which request shall be made in writing, shall provide a timeframe for response, and shall be provided to the Objector and Impacted Parties.

12.5. A written recommendation shall be issued by the Zoning Administrator, or her designee, with respect to the Objection which sets forth her findings and conclusions based upon evaluation and review of the Objection and all Documentation provided with respect thereto. A copy of the Zoning Administrator's recommendation shall be promptly provided to the Objector and to any Impacted Parties.

12.6. The Zoning Administrator's recommendation shall be forwarded to the City Council within thirty (30) days of its issuance. Within a reasonable time thereafter the City Council shall make a final determination with respect to the Objection.

12.7. Negotiations. Notwithstanding any other provision of this Section, and subject to approval by the City Council, a subdivider, developer or owner of the property may negotiate an agreement ("Agreement") with the applicable school district and/or park district with respect to a land cash dedication that deviates from the requirements of this Section. Any such Agreement must be in writing, signed by the applicable subdivider, developer, and owner of the property and the applicable school district and park district, and timely submitted to the City. Said Agreement shall be recorded prior to the recordation of the final plat of subdivision for the development in question, and the final plat of subdivision shall contain a note referencing the existence of such Agreement and the recording number thereof.

12.7.1. The parties to the Agreement shall be responsible for ensuring that said Agreement is fully executed by individuals having the authority to execute the Agreement. The City shall not be liable for any alleged failure of execution by an appropriate or authorized party.

12.7.2. Any negotiated assessment of land cash dedication pursuant to this Section shall not be deemed precedential for any future development.

12.8 The Zoning Administrator, in her discretion, may allow extensions of timeframes provided for herein. Such extensions shall be in writing and provided to the Objector and Impacted Parties.

SECTION 4: Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED this _____ day of _____, _____.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, _____.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue
City Clerk