



City of Killeen

Agenda

City Council Workshop

Monday, November 14, 2022

5:00 PM

Utility Collections Conference Room
210 W. Avenue C
Killeen, Texas 76541

**SPECIAL JOINT WORKSHOP MEETING
KILLEEN CITY COUNCIL
AND
PLANNING AND ZONING COMMISSION**

Citizen Comments

This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to four (4) minutes. A majority of the City Council is required for any time extensions. The Mayor and Councilmembers shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.

Items for Discussion at Workshop

[DS-22-134](#)

Discuss Amendment to Chapter 26 of the City of Killeen Code of Ordinances Establishing Parkland Dedication and Development Requirements and Establishing Fees

Attachments: [Ordinance](#)

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on November 10, 2022.

Judy Paradise, Interim City Secretary

The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.

This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign

interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

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City of Killeen

Staff Report

File Number: DS-22-134

Discuss Amendment to Chapter 26 of the City of Killeen Code of Ordinances Establishing Parkland Dedication and Development Requirements and Establishing Fees

AN ORDINANCE AMENDING CHAPTER 26 OF THE CITY OF KILLEEN CODE OF ORDINANCES BY ADDING ARTICLE IV, DIVISION 5, SECTIONS 26-128 THROUGH 26-165 ESTABLISHING PARKLAND DEDICATION AND DEVELOPMENT REQUIREMENTS AND ESTABLISHING FEES IN LIEU THEREOF; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City of Killeen has declared the application and enforcement of the City's subdivision and property development regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare of the City; and,

WHEREAS, it has been determined by the Supreme Court of Texas that a development regulation requiring the dedication and development of parkland, or paying a fee in lieu thereof, does bear a substantial relation to the health, safety, or general welfare of a community; and

WHEREAS, the City of Killeen finds and determines that the development of residential subdivisions and lots results in increased population, which, in turn, imposes increased demand upon the City's existing park system that would otherwise not occur but for the new development; and

WHEREAS, the City of Killeen finds and determines that in order to ensure that adequate parkland and related improvements are available to satisfy the increased need created by residential development, amendment to the City of Killeen's Code of Ordinances is necessary to establish a fair and reasonable method of providing for such additional parkland and improvements; and

WHEREAS, the City of Killeen hereby finds that the quantity and amount of the dedication, development, and fees associated with this ordinance are substantially related to satisfy the need for additional parkland and amenities and the same are roughly proportionate to the impact that residential development has on the City's park system based on the current level of service per dwelling unit existing in the City as of the effective date of this ordinance; and

WHEREAS, the City of Killeen finds that requiring parkland dedication, fees in lieu of such dedication and parkland development fees through the development process are necessary to provide for an unmet need and will benefit the health, safety and welfare of its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, THAT CHAPTER 26, ARTICLE IV OF THE CITY OF KILLEEN CODE OF ORDINANCES IS HEREBY AMENDED BY ADDING DIVISION 5 WHICH IS HEREBY ADOPTED TO READ AS FOLLOWS:

CHAPTER 126. SUBDIVISIONS

Article V. Public Parkland and Open Spaces

Division 1. Generally

Sec. 26-128. Purpose, Intent, and Authority.

- A. **Purpose.** The general purpose of this Article is to ensure that there is sufficient land dedicated or otherwise set aside, and resources for development, to meet the public demand for parks, trails, and open space that arises from population growth. In this way, when new growth and development occurs, a proportionate and reasonable contribution of land dedication, park development, fees in lieu of land conveyance or park development, or combination thereof, allows the parks, trails, and open space system to grow concurrently.
- B. **Intent.** The City intends to achieve these purposes to:
1. *Grow.* Grow the parks, trails, and open space system by:
 - a. Adding new publicly accessible property concurrent with growth and redevelopment and target level of service benchmarks as set out in the Parks Plan.
 - b. Ensuring good distribution of new parks, trails, and open space to improve the number of residences which are located within a ½-mile radius of a public park, trail, or open space property.
 - c. Providing for a comprehensive network of trails and supporting facilities which links parks, homes, schools, and other community destinations.
 - d. Preserving environmentally sensitive and ecologically diverse areas which can also be cross utilized for public use.
 - e. Establishing polices for the conveyance of property which meets the requirements of this Article.
 2. *Develop.* Develop and/or enhance parks and trails by:
 - a. Establishing public parkland and trail design considerations and criteria which ensures the development of durable and fiscally-maintainable park and trail facilities and amenities.
 - b. Requiring the development of new parks and trails which meet or exceed the attributes and building blocks of Complete Parks as defined in the Parks Plan.
 - c. Preserving and protecting existing trees and vegetation, floodplains, stream corridors, and other areas of environmental significance from adverse impacts of development.
 3. *Improve and Maintain.* Improve and maintain public parks and trails by:
 - a. Providing for flexibility regarding compliance with these requirements to allow opportunity for incremental improvements and contribution towards purposeful longer-term intensive capital investments within established Park Benefit Zones.
- C. **Authority.** This Article is enacted pursuant to the City's police powers existing under the City's charter and consistent with the Texas Constitution, Article XI, Section 5. It is hereby declared by the City Council that parks, trails, and open space are an essential part of the civic infrastructure and are necessary for the health, safety, and welfare of the public. The provisions of this Article shall not be construed to limit the power of the City to utilize other methods authorized under state law or pursuant to other City powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this Article. Guidelines may be developed by the Parks Director and approved the Recreation Services Advisory Board to implement and administer this division.

- D. **Findings of Fact; Compliance with the Parks Plan.** The City has adopted a Parks Plan which outlines the necessity for parkland dedication and the types of improvements deemed appropriate for the City. The plan has carefully assessed the deficiencies of the existing park system and impact created by new development and has established a dedication and/or cost requirement based upon individual dwelling units. The plan constitutes an individualized fact-based determination of the impact of new living units on the park and recreation system and establishes an exaction system designed to ensure that new living units bear their proportional share of the cost of providing park and recreation related services. The dedication and development of any parkland and the expenditure of any fees-in-lieu of dedication or development shall be in accordance with the purpose and intent of the Parks Plan of the City and this Article.

Sec. 26-129. Applicability and Exceptions

- A. **Applicability.** This Article applies to all property within the City limits and the extraterritorial jurisdiction (ETJ), unless exempted by Section 26-129.B. This article applies to applications for which City approval is sought under the City's Subdivision Ordinance, as may be amended. Property owners or developers must comply with the parkland dedication and park development requirements set out in this Article.
- B. **Exceptions.** The requirements set out in this Article do not apply:
1. To the subdivision of nonresidential development.
 2. To subdivided lots which were previously subject to these requirements, provided that the new development does not increase in residential intensity.
 3. To subdivided lots within the ETJ platted per Division 4, Minor Plats.

Secs. 29-130-134. Reserved

Division 2. Parkland Dedication

Sec. 26-135. General.

- A. **Generally.** A property owner/developer shall contribute a fair share to the growth of the parks and open space system as part of new development.
- B. **Forms of Contribution.** Contributions can be in the form of parkland dedication, fees in lieu thereof, or some combination of both.
- C. **Review and Acceptance.** Land proposed for dedication to the City under this division shall be reviewed by the Planning Director, recommended by the Parks Director, and approved by the Planning and Zoning Commission. Reviews and recommendations shall be based on the findings set out in this Article and the latest adopted version of the Parks Plan. The Parks Director shall also provide a quarterly update to the Recreation Services Advisory Board on accepted property per the requirements of Article.
- ~~D.~~ **Prior Dedication.** The City Manager shall have the authority to enter into a written agreement with a property owner to credit a gift of land, on a per-acre basis, to offset future parkland dedication requirements imposed on the same property owner for a subsequent, separate property being proposed for development. Donations submitted prior to the effective date of this Article shall not qualify for credit.

~~D.~~

Sec. 26-136. Parkland Dedication ~~Fee~~ Calculation.

- A. **Generally.** The calculation for determining the acreage amount of parkland dedication shall be in conformance with this Section.
- B. **Calculation of Dedication Acreage.** The amount of land required to be dedicated for parkland shall be calculated at a rate of not less than five acres of parkland per 1,000 ultimate residents or an equivalent ratio thereof. The required acreage shall be rounded to the nearest one tenth. The following formula shall be used to determine the amount of parkland to be dedicated:

$$\frac{5 \times (\text{Number of Units}) \times (\text{Persons Per Unit})}{1,000} = \text{Acres to be dedicated}$$

The number of persons per unit shall be based on data compiled by the City. The City shall review and adjust the data as necessary. The following figures represent the average number of persons per unit by current density categories and shall be used to calculate parkland dedication:

Table 26.136A Parkland Dedication Required			
Development Type ¹	Representative Building Types	Persons per Unit ²	Parkland Dedication
Single-Family/ Two-Family	Single-family detached and attached, manufactured homes, duplexes, etc.	2.99	1 acre per 67 dwelling units
Multi-Family	Triplexes, quadriplexes, apartments, etc.	2.60	1 acre per 77 dwelling units
¹ The development type is based on the intended number of families to be housed in the same building, irrespective of the construction (e.g., stick built, modular, etc.) or ownership type (e.g., fee simple, condominium, etc.) or configuration (e.g., independent or mixed-use).			
² Persons per unit numbers are based on the latest data for the City of Killeen on average household size for owner- and renter-occupied units (U.S. Census Bureau, 2019: ACS 1-Year Estimates Data Profiles).			

Sec. 26-137. Criteria for Public Parkland Dedication

- A. **Generally.** To ensure dedicated public property creates a foundation for future park development that adheres to Complete Park principles, as defined in the Parks Plan, adequate review of the location, size, access, connectivity, and visibility must be considered at the time of dedication.
- B. **Minimum Dedication Requirements.** Land dedicated for public parkland purposes shall consider the following:
1. **Location.** Parkland shall be located, whenever possible, in a manner that is centrally located within the residential areas of the parcel proposed for development and to maximize protection of sensitive natural features like water bodies, watercourses, stands of mature trees, and scenic views.
 2. **Size.** Parkland shall be a minimum of three contiguous acres in size and of suitable width, depth, and topography to permit the construction of a neighborhood park in conformance with the standards set out in subsection 26-~~145~~147.C, *Minimum Development Requirements*, of this Article.
 3. **Access.** Parkland shall be easily accessible for the public in a manner that serves the greatest number of pedestrian and/or bicycle users without having to cross an arterial roadway.

4. **Connectivity.** Parkland shall be oriented in a way that maximizes internal pedestrian and bicycle connectivity to residential areas and to other off-site connections like the greenway system.
5. **Visibility.** Parkland shall be oriented in a manner that is clearly visible to public safety vehicles and the abutting neighborhood residents and other passersby. The front facades of residences should be oriented to face the park on all sides.

- C. Unsuitable Land.** The following physical land characteristics are considered unsuitable for public parkland dedication unless the Parks Director finds that the land has recreational value that warrants its acceptance as public parkland or open space and is consistent with the Parks Plan. This includes drainage ditches, detention or retention ponds (unless designed ~~as a permanently wet water feature~~ with recreational facilities, amenities, and site furnishings); narrow strips of land (unless a minimum of ~~30-20~~ ft. in width and used to maximize pedestrian and bicycle connectivity), steep slopes equal to or greater than 15% (unless located along a watercourse or other acceptable special area), powerline easements (unless approval has been received to construct a connecting trail segment), other easements or environmental hazards which may restrict the City's ability to construct park improvements, and any other areas which may not provide for conducive use of recreational areas.
- D. Off-Site Dedication.** Land proposed for dedication that is off-site from the parcel being proposed for development that is requiring it, shall be located in the same park benefit zone. Off-site land dedications shall be sized 20 percent larger than the required minimum land dedication and shall not be less than 10 acres. Each site shall meet the same standards as sites located within the parcel proposed for development and shall be conveyed to the City as set out herein.

Sec. 26-138. Parkland Dedication Fees-In-Lieu.

- A. Generally.** The City may require, or the property owner/developer may choose, to pay a cash fee for the City purchase of off-site parkland in lieu of all or part of the dedication of on-site parkland in accordance with this Section.
- B. Dedication Fees-In-Lieu.** The fee-in-lieu amount is established at \$50,000 per acre, or a portion thereof. This value is based on the amount of money that would have been otherwise used to purchase land to dedicate to the City.
1. **Fee Calculation.** The fee-in-lieu of parkland dedication is based upon the fair market value of the land that is developable for single-family, two-family, or multi-family use, and that would otherwise be required to be dedicated as public parkland for the parcel proposed for development, including all utilities extended to and through the property and situated outside of the 100-year floodplain. The amount of fees-in-lieu of parkland shall be based on the following formula: $(A \times V) = M$, where:
 - a. A = the area of land required for dedication as determined in Sec. 26-136., *Parkland Dedication Fee Calculation*
 - b. V = \$50,000 per acre
 - c. M = the number of dollars to be paid in lieu of the parkland dedication requirement

Table 26.138 Parkland Dedication Fee-in-Lieu	
Gross Density per Residential Development (Dwelling Units per Acre)	Park Development Fee per Unit ¹

Single-Family/Two-Family Units (2.99 persons per unit)	\$750
Multi-Family Units (2.60 persons per unit)	\$650
¹ Numbers rounded up to the nearest 10.	

2. **Alternate Fee.** The price per acre for fair market value may be modified upon submittal of an alternate appraisal by an independent appraiser approved by the City utilizing a comparable sales method to value the fair market value of the net acreage of the tract. The alternate appraisal is the responsibility of the property owner/developer and may not be more than four months old.

- C. **Required Payment.** Fees-in-lieu ~~is required for development within the ETJ and~~ may be required by the City for development within the City limits ~~or ETJ~~ if the proposed required dedication is less than three acres in size or if the City otherwise determines that the fees-in-lieu thereof better serve the park, trail, and open space needs of the Killeen community and the intent of the Parks Plan (see also Section 26-~~138~~158).

Secs. 26-139-144. Reserved.

Division 3. Park Development

Sec. 26-145. General.

- A. **Generally.** In addition to the dedication and conveyance of public parkland, the property owner/developer shall bear a proportional cost of parkland improvements needed to serve new growth. This may occur through a cash payment to the City's Park Benefit Fund, or through constructing park and trail facilities and amenities as set out in this Division and other applicable provisions of this Article. The design specifications are intended to ensure that the proposed improvements adequately meet the purposes and intent set out in this Article.
- B. **Forms of Contribution.** Contributions can be in the form of park development, fees in lieu thereof, or some combination of both.
- C. **County Applicability.** Unless otherwise authorized by a park development agreement between the jurisdictions and the property owner/developer, parcels proposed for development within the City's extraterritorial jurisdiction shall either pay a park development fee or construct the required public amenities.

Sec. 26-146. Park Development Fee Calculation

~~A. **Generally.** The Park Development Fee is calculated at a rate of not less than \$250,000 per acre of park development.~~

B.A. Calculation of Development Fee. The following fee rates are calculated based on the expected persons per unit consistent with Table 26.136A, *Parkland Dedication Required*, of this Article.

Table 26.146 Park Development Fee	
Gross Density per Residential Development (Dwelling Units per Acre)	Park Development Fee per Unit
Single-Family/Two-Family Units (2.99 persons per unit)	\$450
Multi-Family Units (2.60 persons per unit)	\$250

G.B. Development Fee Credits. Privately owned park properties may receive up to 100 percent credit towards fulfilling the requirements of the Park Development Fee, provided that the Parks Director approves the proposed design, specification, and construction in conformance with Section 26-147, *Criteria for Parkland Development*, and other applicable sections of this Article.

Sec. 26-147. Criteria for Parkland Development

- A. **Generally.** A property owner/developer may propose to develop public parkland in whole or part rather than paying the Park Development Fee.
- B. **Applicability.** This Division only applies to parkland being dedicated to the City as public parkland or privately owned parkland that is being used as credits toward meeting the Park Development Fee.
- C. **Minimum Development Requirements.**
1. *Design, Specification and Construction.* Design, specification, and construction of the improvements shall be subject to review and approval by the City and shall be in conformance with the Complete Park principles set out in the Parks Plan so that parkland design is purposeful regarding accessibility, safety and level of comfort, sociability, activation, and future maintenance.
 2. *Special Design Considerations for Private Pocket Parks.* The inclusion of privately owned pocket parks to offset parkland dedication and development fee requirements shall conform to the following.
 - a. Each pocket park shall be centrally located within every phase of a parcel proposed for development so that all lots or units are located no greater than ¼-mile from the edge of a privately-owned pocket park, or other privately owned/public parkland. The ¼-mile distance shall be measured using walking distance along sidewalks and trails.
 - b. The pocket park shall take access from a local street and be no smaller than the average lot size of the lots platted in that phase of the subdivision, or ½-acre, whichever is larger.
 - c. At a minimum, the pocket park shall include an ADA-compliant loop trail and connection to the sidewalk, a shaded children's play area (ages 2-12), swings, a shade pavilion with a minimum of one picnic table, social seating, fitness activity, and other site furnishing typical of a pocket park.
 - d. In addition, each pocket park shall include at least one of the following: mini-sports court, community garden, open grass play area, enclosed off-lease area for dogs, or other amenity approved by the Parks Director.
 3. *Special Design Considerations for Public or Private Neighborhood Parks.* The inclusion of privately owned neighborhood parks to offset parkland dedication and development fee requirements shall conform to the following:
 - a. Each neighborhood park shall be centrally located within the parcel proposed for development to maximize access to as many residents as possible.
 - b. The neighborhood park shall take access from local or collector street and be no smaller than three acres in size.
 - c. At a minimum, the neighborhood park shall include the same minimum requirements as a pocket park, as defined in subsections C.2.c. and C.2.d., above.
 - d. In addition, each neighborhood park shall include three of the following additional amenities: neighborhood serving pool, full sports court or field, community garden, enclosed off-lease area for dogs, shaded picnic pavilion with at least two picnic tables, or other neighborhood-scaled amenity approved by the Parks Director.

4. *Special Design Considerations for ~~City Priority Trail Corridors~~Public or Private Trail Development.* When a parcel proposed for development includes a thoroughfare or greenway trail, as identified on the Killeen Future Trail ~~System Opportunities~~Segments Map of the Killeen Parks Plan, or trail development in general, the property owner/developer shall be responsible for constructing and extending the trail segments across the property, as may be applicable. The placement, construction, and dedication of ~~priority~~ trails shall comply with the following:
- a. For greenway trails located in floodplains, this requires dedication of the property to the City and construction of the trail to City specifications.
 - b. For thoroughfare trails (i.e., oversized sidewalks along priority corridors to facilitate citywide recreational and transportation connections), this requires construction to City specifications and dedication as part of future right-of-way.
 - c. This also requires the placement and construction of appropriate neighborhood connector trails throughout the parcel proposed for development so that adequate access is provided to the greenway and thoroughfare trail system. These connectors shall be protected by permanent ~~30~~20-foot access easements.
 - d. When a parcel proposed for development abuts off-site floodplain which is identified as a priority trail corridor, the property owner/developer shall ensure connection to the off-site greenway trail corridor by dedicating one or more ~~30~~20-foot access easements which provide access to the property.
 - e. In no instance may a property owner/developer prohibit, through the use of subdivision of lots or other improvements, the future development of the City's regional greenway trail system.
 - f. Areas within the parcel proposed for development which include connector trails to the City's existing or proposed greenway system shall be owned and managed in perpetuity as part of common property of a property owners association, or dedicated, as may be set out in the Park Development Agreement.
 - ~~g.~~ All trail development used to meet the requirements of these regulations shall be developed per the cross-sections set out in the Parks Plan and other City specifications and have a 20-foot minimum public access easement based on the centerline of the trail.
 - ~~g.h.~~ At a minimum, all trails need to include site furnishings. When not provided elsewhere within the parcel proposed for development, the trail system shall be further amenitized meeting the same minimum requirements as a pocket park, as defined in subsections C.2.c. and C.2.d., above.
5. *Timing.* Construction of the infrastructure, facilities, and amenities for the portion required for the final plat(s) approval must be completed within the time period prescribed in the park development agreement; or, within three (3) years of the City's approval of the first final plat of the subdivision, when the applicant has not entered into a park development agreement.

Secs. 26-148-~~154~~150. Reserved.

Division 4. Alternate Compliance

Sec. 26-151. Alternate Parkland Dedication and Development Options.

A. Dedication Credits~~Generally.~~ ~~Alternate compliance Dedication credits are~~ allowed to provide the property owner/developer flexibility in determining how to meet the minimum parkland dedication and development requirements. ~~These credits reduce minimum acreage requirements as they strongly help to achieve the goals and intent of the Parks Plan.~~

A.B. Alternate Compliance Options. Up to a maximum of 100% of the parkland dedication and development requirements may, ~~at the discretion of the Parks Director and City Manager,~~ be fulfilled by alternate ~~dedication~~ credit compliance options provided that they meet the standards set out in this Article.

Table 26.136B Dedication Credit Offsets	
Criterion	Maximum Credit(s)
Private Pocket Park ^{1, 5} within a ¼-mile of all units	50 75%
Private Neighborhood Park ^{1, 4, 5}	50 75%
Integrated KISD Elementary/Middle School site with an associated joint use school park ^{2, 4, 5}	75 100%
Dedication of floodplain on a per-acre <u>with greenway trail development</u> ^{1, 3, 4}	50 100%
<u>Private Trail connectivity and development</u> ^{1, 4, 6}	<u>100%</u>
<p>¹ Requires the parcel proposed for development to have a perpetual property owners association (POA) with covenants, conditions, and restrictions (CCRs) acceptable to the City at the time of subdivision. See also parkland improvement provisions set out in Division 3, Parkland Development.</p> <p>² Requires an executed joint use agreement between the City and KISD for the applicable integrated school park property.</p> <p>³ Requires dedication of 100-year floodplain areas, if applicable and as delineated at the time of platting, which are located in a proposed greenway trail corridor as identified on the Killeen Future Trail System Opportunities <u>Segments</u> Map of the Killeen Parks Plan. An additional 20-foot corridor for maintenance and trail access beyond the limits of the 100-year floodplain shall be required to receive this credit.</p> <p>⁴ A minimum of 50% of the abutting lots or units <u>(including those facing from across the street)</u> shall front the parkland. For dedicated parkland along watercourses or waterbodies, this 50% requirement may also be met through the establishment of single loaded streets where both the parkland and lots or units front the street.</p> <p>⁵ Requires the private development of a new pocket or neighborhood park(s), or contribution of park improvements to a development-integrated joint use school park in association with KISD.</p> <p>⁶ <u>Provides credit allowances for the development of a connected trail system. Areas may be counted where trails and abutting land is dedicated to the City or is owned and maintained by a POA.</u></p>	

C. Excess Dedication. Parkland dedication in excess of the required dedication area for a proposed development shall not entitle a property owner/developer to credits toward development fees. However, such dedication may be credited toward a future development in accordance with Sec. 26-135.D.

Secs. 26-152-154. Reserved.

Division 45. Administration

Sec. 26-155. General.

- A. **Generally.** These parkland dedication and development regulations shall be overseen by the Parks Director in conformance with this Division, other applicable sections of this Article and other provisions set out in the City's Code of Ordinances.
- B. **No Implied Limitation.** The provisions of this Article shall not be a limitation regarding the conduct of the Council, boards, commissions, or City staff where additional responsibilities or authority are set out elsewhere in these regulations, the City's Code of Ordinances, or through policies adopted by the City Council, or a board or commission approved by the City Council.

- C. **Delegation of Duties.** Assigned City staff decision-makers may delegate duties to other City staff to perform such functions and duties as may be required by these regulations; provided that such delegation is to other City staff or outside entities which are technically proficient to undertake such duties. Such designation does not relieve the decision-makers of overall responsibility for any final action, report, recommendation or additional duty described in these regulations.

Sec. 26-156. Park Benefit Zone.

- A. **Generally.** All dedication of parkland and improvements, or fees-in-lieu thereof, must be applied within the same Park Benefit Zone. This is to ensure that property dedicated and money collected directly benefits the residents of those same geographic areas.
- B. **Park Benefit Zone Map.** A "Park Benefit Zone Map" is set out in the Parks Plan. It identifies different zones in which the parkland dedication and development fees-in-lieu are to be collected and spent. The purpose of this map is to create a clear nexus between the fees collected and benefits received based on defined geographic subareas.

Sec. 26-157. Park Benefit Fund.

- A. **Generally.** The City shall reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of parkland dedication or fee-in-lieu of parkland development in a separate account from the general funds of the City. This fund shall be known as the Park Benefit Fund.
- B. **Record of Deposits/Expenditures.** The City shall deposit and maintain records of collections and expenditures of the Park Benefit Fund.
- C. **Use of funds.** Monies placed in the Park Benefit Fund shall be used in the same Park Benefit Zone as set out in this subsection.
1. **Expenditure of Funds.** Monies may be expended from this fund only for the following:
 - a. The purchase, lease, or other acquisition of parkland;
 - b. The improvement, preparation, and construction of infrastructure and facilities on parkland;
 - c. The installation of utilities and connections to parkland sites;
 - d. The construction of any facility or amenity that further enhances existing or new parkland in conformance with Complete Park principles as set out in the Parks Plan; or
 - e. The associated planning and/or engineering costs associated with the planning, design, and construction of parkland sites and other items set out in this subsection.
 2. **Timing.** Any funds paid in lieu of land or the development of land, must be expended by the City within ~~40~~ seven years after the filing of the final plat or the filing of the final plat of each phase or section of the contributing subdivision, if a phased development. Such funds shall be spent on a first-in, first-out basis for each Park Benefit Zone. If not so expended, the owner(s) of the property on the last day of such period may request, in writing, to receive a pro rata refund of such sum, computed on a square footage of area basis. Any written requests after one year from the last day of the period shall be barred.

Sec. 26-158. Dedication and Development Procedures.

- A. **Generally.** Public parkland and improvements on parcels proposed for development shall be processed in conformance with the provisions of this Article and other applicable procedures of the City's Code of Ordinances.

B. Procedures.

1. *Pre-Application.* While not required, it is recommended that the property owner/developer consult with the Parks Director to discuss options for conformance with this Article prior to submittal of an application.
2. *Application.* On a form provided by the Parks Director, the property owner/developer shall submit with the subdivision application a proposal identifying conformance with the provisions of this Article.
3. *Platting.* Conformance with this Article requires platting as set out in the Subdivision Ordinance of the City's Code of Ordinances. Concurrence review and acceptance by the Parks Director is required prior to being placed on the agenda of the Planning and Zoning Commission.
4. *Phasing.* Dedication and conveyance of public parkland may be provided in phases in accordance with the approved preliminary plat; provided that the dedication for each phase meets or exceeds the parkland dedication requirements of this Article for that phase of development. The Planning Director is authorized to allow phasing of parkland dedication below the requirement for each phase of development if the Parks Director finds the proposed phasing of the ultimate dedication meets or exceeds the requirements of this Article and provides a more effective means serving the residents of Killeen community.
5. *Developer's Warranty.* Prior to the City accepting the dedication and conveyance of any public parkland, the property owner/developer shall submit in writing that the land to be dedicated to the City as public parkland is: free of fill material (unless the Parks Director and the City Engineer approve of the placement of fill material in writing); free of construction debris or other refuse; free of any physical disturbance, including soil excavation, site grading, or removal or damage to vegetation (unless the Parks Director and the City Engineer approve of such physical disturbance in writing); free of any easements or other dedications, encumbrances, restrictions, or title defects not approved in writing by the Planning Director; and free of all hazardous substances and underground storage tanks.
6. *Park Development Agreement.* In order to ensure the fulfillment of the agreed to proposed public and/or privately-owned park improvements, the City shall require the property owner/developer to enter into a written Park Development Agreement with the City establish the terms of development.
7. *Timing of Improvements.* The developer shall complete all required improvements as set out below, including as may be phased as set out in subsection 126-158, B.4., above.
 - a. *Public.* The developer shall complete all public improvements (e.g., utility extensions, sidewalks, trails, facilities, amenities, and site furnishings) as set out in the Park Development Agreement or post fiscal security in the amount of 110 percent of the estimated cost of the public improvements prior to dedication or conveyance of the parkland. The form of the fiscal security shall be approved by the City Engineer.
 - b. *Private.* The developer shall complete all private improvements, if applicable, as set out in the Park Development Agreement or prior to the issuance of a certificate of occupancy for any individual lot or unit subject to these requirements.
8. *Conveyance Requirements.* The property owner/developer shall provide the following prior to or at the same time as plat recordation.
 - a. Acceptable evidence of clear title.
 - b. A land title survey prepared by a Texas registered professional licensed surveyor sealed no earlier than the 120th day before the conveyance of the public parkland of the City.
 - c. A certified tax certificate showing full payment of all due taxes.

- d. The property owner/developer shall pay all costs of transferring title of the parkland to the City, including charges or fees collected by the title company and all other fees associated with curing all encumbrances or exceptions to the title that preclude the land's use as public parkland.

9. **Development Compliance.** Prior to the final acceptance of the public improvements by the City, the owner/developer shall provide proof of construction costs of all improvements through certified construction bids and invoices. In the event the owner/developer does not expend the total amount as defined in the Park Development Agreement, the owner/developer shall be entitled to any cost savings, provided that the improvements still meet the intent and standards set out in this Article and other applicable provisions.

~~B. **Fee Payment.**~~ All fees-in-lieu thereof required by this Article shall be paid prior to the recording the final plat.

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- C. **Additional Units.** If the actual number of completed dwelling units exceed the quantity on which the dedication and improvement calculations were based, the property owner/developer is required to make up the difference by paying fees in lieu thereof as required by the City.
- D. **Recording.** Land proposed for dedication as public parkland shall be designated on the preliminary and final plat and shown as "Parkland dedicated to the City of Killeen," with the perimeter dimensions and acreage denoted. All land designated as parkland shall be included in a separate reserve area, or multiple reserve areas, that are shown on the plat.

Sec. 26-159. Decision-Making.

- A. **Generally.** Administrative and discretionary decision-making on applications for parcels proposed for development that require parkland dedication and development shall comply with this Section.
- B. **Criteria for Decision-Making.** Decision-making shall find conformance with all of the following.
 - 1. *Conformance with the Parks Plan.* Does the proposal meet the intent of the City's Parks Plan and commensurately contribute its fair share towards improving the City's overall level of service?
 - 2. *Conformance with the Comprehensive Plan.* Does the proposal meet the intent of the City's overall Comprehensive Plan?
 - 3. *Conformance with Complete Park Principles.* Does the proposal adhere to the City's Complete Park principles?
 - 4. *Conformance with Other Applicable Provisions.* Does the proposal conform to the other applicable rules and regulations set out by local, state, and federal law, as may be apparent at the time of decision-making?
- C. **Right to Accept/Reject Land.** The City retains full rights to accept or reject all offers of dedicated parkland deemed not suitable under the criteria set out for decision-making. Rejection of proposed dedicated land means that the property owner/developer shall be required to meet the minimum parkland dedication requirements using the fees-in-lieu-of section of this Article. The decision to require fees-in-lieu instead of dedication shall be made prior to approval of the preliminary plat.
- D. **Right to Accept/Reject Proposed Improvements.** The City retains full rights to accept or reject proposed park improvements that are deemed not suitable under the criteria set out for decision-making. Rejection of proposed park improvements means that the property owner/developer shall be required to meet park development fee

requirements using the fees-in-lieu-of section of this Article. The decision to require fees-in-lieu instead of park improvement shall be made prior to approval of the preliminary plat.

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Sec. 26-160. Fees Evaluation.

- A. **Generally.** The fees set out in this Article may be evaluated on an annual basis by the Recreation Services Advisory Board.
- B. **Amendment.** Recommended fee amendments shall be forwarded to the City Council for consideration of approval. Changes in fees only apply to new subdivisions approved after the date of the amendment and shall not be retroactive.

Sec. 26-161. Appeals.

- A. **Generally.** A property owner/developer may appeal the decisions related to the enforcement of these provisions to the City Council.
- B. **Timing of Appeal.** A notice to appeal shall be filed with the City Manager within 10 calendar days from the date of the decision or action.

Sec. 26-162. Definitions.

- A. **Generally.** For the purposes of these regulations, the words and terms used herein shall be interpreted as set out in this Section.
- B. **Definitions.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:
 - 1. *Application* means a written request and submission of materials for an approval as required by these regulations.
 - 2. *Covenants, Conditions, and Restrictions (CCRs)* means a restriction on the use or development of land, which requires affirmative actions to be performed, that is set forth in a recorded agreement, and runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the express written consent of the City Council.
 - 3. *Easement* means an area for restricted use on private property upon which the City or a public utility has the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The City and public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.
 - 4. *Extraterritorial Jurisdiction (ETJ)* means the area of land adjacent to the City limits which through the authorities provided by state law allows the City to extend some regulatory provisions into the unincorporated area as a means to protect the general health, safety, and welfare of persons residing in and adjacent to the City, and to provide the City with some control over its growth area as set out in §42.021 of the Texas Local Government Code.

5. *Nonresidential* means any use, building or structure (or portion of a building or structure) occupied or intended to be occupied, in whole or in part, for a use other than a residential dwelling unit.
6. *Parcel Proposed for Development* means any legally described parcel of land which is designated by the property owner/developer as land to be used or developed as a single unit, including phasing, or which has been developed as a unit as determined by the Planning Director. Parcels proposed for development oftentimes go through the subdivision process to create individual lots.
7. *Park Benefit Zone* means each zone shown on the map or series of maps entitled "Park Benefit Zones," adopted by the City Council as part of the adoption of the Parks Plan.
8. *Park Development Agreement*. A park development agreement is a legally binding contract between a property owner or developer and the City which details special terms of agreement which are authorized, but not fully specified in the regulatory text. This provides the property owner/developer with flexibility in meeting the terms and conditions of the regulations yet provides the City with the specificity needed to determine conformance with the purpose and intent of the provisions authorizing it. The legally binding contract provides the City with a mechanism to enforce the specifications of future improvements which will occur much later after the decisions have been made.
9. *Parks Director* means the City's Executive Director of Recreation Services, or similar title, as may be amended from time to time.
10. *Parkland* means parks, trails, and other areas for public recreational use.
11. *Parkland Dedication* means the commitment of property interest from a private entity to a public entity for a public purpose.
12. *Park Benefit Fund* means the dedicated account established for fees collected in lieu parkland dedication and development.
13. *Parks Plan* means the City's adopted Parks and Open Space Master Plan, as may be amended from time to time.
14. *Planning Director* means the City's Director of Planning or similar title, as may be amended from time to time.
15. *Property Owners' Association* means an incorporated nonprofit organization operating under recorded land agreements through which:
 - a. Each lot, unit, or home or business owner in a development (or other described land area) is automatically a member;
 - b. Each lot, unit, or homeowner or business owner is automatically subject to a charge for a proportionate share of the expense of the organization's activities (e.g., maintaining open space, common open space, or other commonly owned property such as entrance monuments and landscaping); and
 - c. The charge, if unpaid, becomes a lien against the property.

Property owners' associations may also be called such things as "community associations," "condominium associations," "homeowner associations," "neighborhood associations," etc.
16. *Residential* means any use, building or structure (or portion of a building or structure) that contain habitable rooms for non-transient occupancy. Residential uses are typically contained within single-family, two-family, and multi-family dwelling units. The term "residential" is separate and distinct from "hotel / lodging and other overnight accommodations."

17. *Site Furnishings*. Site furnishings mean benches, trash receptacles, bike racks, landscape beds, and signage.
 18. *Subdivision Ordinance* means the Subdivisions and Property Developments regulations set out in Chapter 26 of the City's Code of Ordinances.
 19. *Waterbody* means any watercourse, lake, or pond that is defined by a bank or shore, in which water can be found on a year-round basis.
 20. *Watercourse* means a stream channel (perennial, intermittent, mapped, or unmapped) with banks and a bed within which water regularly flows.
- C. **Terms and Words Not Expressly Defined.** The words, terms, and phrases that are defined in this Division are those having a meaning unique to the purposes of these regulations. All words, terms, and phrases not expressly defined in this Division, are to be construed in accordance to adopted ordinances, codes, or standards of the City, or according to the customary meaning and usage of such word, term, or phrase.

Secs. 26-163-165. Reserved.