

# **A: Minnetrista Park Dedication Ordinance**

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## **500.47 Park Dedication Requirements**

Subdivision 1. Required. Pursuant to Minnesota Statutes, section 462.358, subd. 2b, the city requires all subdividers to dedicate to the city or preserve for public use as parks, recreational facilities, playgrounds, trails, open space or areas of natural and environmental significance a reasonable portion of the buildable land of the subdivision. For the purposes of this section, a “subdivider” means any party separating an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests. The city council, at its discretion, may elect to require in lieu of land an equivalent cash payment based on the fair market value of the buildable land no later than the time of final subdivision approval. Any cash payment shall be placed in a special fund and used only for the purposes for which it was obtained, including the acquisition and development or improvement of the public park system or debt retirement in connection with land previously acquired. The form of contribution (cash or land, or any combination thereof) shall be decided by the city council based upon need and conformance with the comprehensive plan and the park plan therein. For purposes of this section, “buildable land” means the gross acreage of all property in the subdivision excluding wetlands designated by federal or state agencies, areas below the 100-year ordinary high water elevations and arterial streets and roadways.

Subd. 2. Administrative procedures. The city council shall establish the administrative procedures deemed necessary to implement the provisions of this section, including all those required by Minnesota Statute, section 462.358.

Subd. 3. Dedicated land requirements. Any land dedicated to the public as a requirement of this section shall be reasonably useable for one or more of the public purposes for which it is acquired. Factors used in evaluating the utility of the area proposed to be dedicated shall include size, shape, topography, drainage, geology, tree cover, access and location.

Subd. 4. Standards for determination. The parks and recreation commission may from time to time recommend changes to the standards and guidelines established by this section for determining which portion of each subdivision should reasonably be required for public dedication. Such standards and guidelines may take into consideration the zoning classification to be assigned to the buildable land, the particular use proposed for such land, amenities to be provided and factors of density and site development as proposed by the subdivider.

Subd. 5. Parks and recreation commission recommendation. For each subdivision, the parks and recreation commission shall recommend to the city council the total area and location of the land that should be dedicated within the subdivision for public use.

Subd. 6. Area of dedicated land. Subdividers shall be required to dedicate to the city for use as parks, recreational facilities, playgrounds, trails, open space, or areas of

natural and environmental significance the percentage of the buildable land of the subdivision or the equivalent fair market value in cash as set out below:

- (a) Residential.

The greater of:

- (1) proposed dwelling units per acre, or
- (2) the zoned density

At Least	But less than	Percentage of buildable land or equivalent market value in cash to be dedicated
0	1.0	5
1	2	10
2	3	11
3	4	12
4	5	13
5	6	14
6	7	15

- (b) For commercial and industrial subdivisions, the subdivider shall, at the discretion of the city council, dedicate five percent of the buildable land area of the subdivision or an equivalent amount of cash in lieu.
- (c) Maximum payments. In no event shall the cash in lieu payment exceed \$25,000 per residential lot.

Subd. 7. Exemption for newly created lots with an existing dwelling or structure.

For residential subdivisions on which a dwelling unit currently exists, the required dedication shall not apply to the resulting lot containing the existing home. For commercial and industrial subdivisions on which there is an existing permitted or conditionally permitted use, the required dedication shall not apply to the resulting lot containing the existing use.

Subd. 8. Future subdivisions. Any land which is further subdivided shall be subject to the park dedication requirements in effect at the time of such additional subdivision. Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots. In no event shall the city be liable for any repayment because of a subsequent reduction in the required park dedication.

Subd. 9. Cash contribution in lieu of lands.

- (a) In subdivisions in which the amount of land to be dedicated to the public is less than the amount required in Section 500.47, subdivision 6, the city council shall require a cash contribution by the subdivider in lieu of dedication of the additional land. The amount of cash to be contributed shall be based upon the fair market value of the equivalent land that would otherwise have been dedicated.
- (b) For purposes of this section, the fair market value means the value of the land at a time no later than final subdivision approval, determined in accordance with the following:
  - (1) The planning department shall make a recommendation to the city council regarding the fair market value of the land, after consultation with the subdivider.
  - (2) The city council, after reviewing the planning department's recommendation, may agree with the planning department or the subdivider, as to the fair market value. If agreement is not reached in this matter, the fair market value shall be determined in accordance with one of the following:
    - a. Fair market value as determined by the city council based upon a current appraisal submitted to the city by the subdivider at its expense. The appraisal shall be made by appraiser who is a member of SREA or MAI, or an equivalent real estate appraisal society; or
    - b. If the city council disputes such appraisal, it may obtain a second appraisal of the land by a qualified real estate appraiser whom the city council selects, which appraisal may be accepted by the city as being an accurate appraisal of fair market value. The cost of the second appraisal shall be paid by the subdivider.

Subd. 10. Lands designated for public use on official map or comprehensive land use plan. Where a proposed park, recreational facility, playgrounds, trail, open space, or area of natural and environmental significance that has been indicated in the comprehensive plan or park plan is located in whole or in part within a proposed subdivision, such proposed public site shall be designated as such and shall be dedicated to the city by the subdivider.

Subd. 11. Density and open space requirements. Land area dedicated for public use under this section may not be used to calculate the density requirements of the subdivision. Additionally, land dedicated under this section shall be in addition to, and not in lieu of, open space requirements of the zoning ordinance and standard development easements. At the discretion of the city council, land set aside through conservation

easements may be accepted, in whole or in part, as a dedication if deemed to be of public benefit in achieving goals established by the comprehensive plan and park plan.

Subd. 12. Credit for private open space. Where private open space for park and recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be used for credit at the discretion of the city council against the requirement of dedication for public purposes, provided the city council finds it is in the public interest to do so and that the following standards are met:

- (a) Yards, court areas, setbacks and other open space required to be maintained by the zoning ordinance shall not be included in the computation of such private open space;
- (b) The private ownership and maintenance of the open space is adequately provided for by written agreement;
- (c) The private open space is restricted for park and recreation purposes by recorded covenants which run with the land in favor of the future owners of property within the subdivision and which cannot be modified without the written consent of the city council;
- (d) The proposed private open space is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, drainage, access, and location of the private open space land; and
- (e) The facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive plan, or park plan, and are approved by the city council.

Under no circumstances, however, shall such credit for private facilities exceed 25 percent of the amount required to be dedicated to the public under this section.

Subd. 13. Funding, accounting, budgeting, expenditure of cash in lieu of lands. All cash contributions received from subdividers in lieu of land dedications shall be deposited into a separate fund to be used for the purposes for which the cash was obtained, including acquisition of land, the development or improvement of existing public sites, or for debt retirement in connection with land previously acquired. The city council shall establish separate budgeting and accounting procedures to oversee said fund.