

Section 23.08 Park and Open Space Dedication

- (1) Purpose and Intent.** The Common Council has determined that it is in the interest of the general welfare of the citizens of the City of Waukesha that ample public open spaces, recreation facilities and parks be located throughout the City and be readily accessible to all citizens, and that new development within the City occur with this policy taken into account. The City has created a Comprehensive Plan for development which determines the location and size of public parks, open space and recreation facilities to implement this policy. To ensure that development of land complies with the Comprehensive Plan, and that the cost of providing for public parks, open spaces and recreation facilities in compliance with the Comprehensive Plan is equitably apportioned on the basis of the demand for such facilities created by the development of land, the City establishes this Ordinance.
- (2) Provision for Parks, Open Spaces and Recreation Facilities.** All subdivision plats, and all certified survey maps creating more than eight residential lots, shall take into consideration the requirements of the City's Comprehensive Plan for public parks, open spaces and recreation facilities, and shall be subject to the determination of the Plan Commission of the adequacy of provisions within the plat or certified survey map of lands reserved for such uses. Approval of the plat or certified survey map shall be conditioned upon the finding of the Plan Commission that adequate provisions are made within the plat or certified survey map for public parks, open spaces and recreation facilities, and the Plan Commission may require amendment of the plat or certified survey map to make adequate provisions. If the Plan Commission finds that adequate provisions for public parks, open spaces and recreation facilities cannot practically be made by the reservation of lands, for reasons including, but not limited to, the unsuitability of land within the development for such facilities, or the requirements of the Comprehensive Plan already being met by lands reserved in other nearby developments, then all or a portion of the developer's obligation may be met through the Impact Fees assessed pursuant to §4.10 of the Municipal Code, and reservation of land may not be required.
- (3) Dedication of Land, Credit Towards Impact Fee.** Lands required to be reserved for public parks and open spaces pursuant to Subsection (2), above, shall be dedicated to the City for development and use as public parks, public open spaces or public recreation facilities, as determined by the Plan Commission. The plat or certified survey map shall indicate the dedication. Dedication of lands pursuant to this section shall not relieve the developer from the assessment of Impact Fees under §4.10, however, the fair market value of all lands dedicated as a condition of approval of plats and certified survey maps pursuant to this Section shall be credited towards the portion of Impact Fees allocated for parks, playgrounds and athletic fields under Municipal Code §4.10, however, the credit shall not exceed the amount of the portion of the Impact Fee allocated for parks, playgrounds and athletic fields.
- (4) Determination of Fair Market Value.** For purposes of Subsection (3), above, fair market value shall be determined by the mutual agreement of the City and the developer. If the City and developer are unable to agree within 30 days of the Plan Commission's final determination pursuant to Subsection (2), above, then the fair market value shall be the average of the fair market values determined by a panel made up of an appraiser appointed

by the City, an appraiser appointed by the developer, and an appraiser appointed by the agreement of the City's appraiser and the developer's appraiser. Fair market values shall be determined on the assumption that the land is vacant and unimproved. The fees of the developer's appointed appraiser shall be paid by the developer, the fees of the remaining two appraisers shall be paid by the City. All appraisers shall be MAI certified.

(Am. #4-87)

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