

O-2025-7

AN EMERGENCY ORDINANCE

REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 16 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE RELATING TO REQUIREMENTS FOR PARK AND OPEN SPACE DEDICATION AND FEES IN LIEU THEREOF

**WHEREAS**, the City of Lakewood hired Norris Design and Duncan and Associates in June 2023 to complete a detailed assessment (“Norris Assessment”) of the existing Park and Open Space Dedication Code (“Parkland Dedication Code”);

**WHEREAS**, **City** staff presented a project update and preliminary recommendations to the City Council at a study session on April 15, 2024, and updated City Council by staff memo on September 6, 2024;

**WHEREAS**, as part of the assessment process, Norris Design and Duncan and Associates met with residents, staff, Planning Commission and Lakewood Advisory Commission members, and the development community;

**WHEREAS**, the City of Lakewood believes it is important to the health, safety and welfare of all its residents to make available park and open land space in various sizes, including large regional spaces, moderately sized community spaces, and smaller neighborhood spaces;

**WHEREAS**, the City of Lakewood Comprehensive Plan entitled “Imagine Tomorrow! Arts, Parks and Recreation For All” and the Norris Assessment found that the City of Lakewood needs a means of requiring parkland to meet both neighborhood and community park requirements impacted by increasing residential development and redevelopment;

**WHEREAS**, to meet the parkland and open space needs arising from the increase in residents, the City needs to encourage the development of parkland and open space within the neighborhoods where new residents are locating as well as expanding community parks to meet this increased need, by mandating parkland and open space land dedication when the developer is able to provide the land to meet this need, accepting fee-in-lieu of dedications where appropriate to support the creation of community sized parks and open spaces, and build and maintain the infrastructure associated with more intensive use of these spaces;

**WHEREAS**, the Norris Assessment found that the current Parkland Dedication Code makes it difficult to encourage or allow innovation in parkland types that might serve to meet the neighborhood park and open space needs, including options such as plazas, play spaces, dog parks, community gardens, trail segments, and dedications to connectivity for park and open spaces;

**WHEREAS**, approving this Ordinance as an emergency ordinance is deemed necessary to address the City's current inability to issue building permits for any residential housing and to seek to address issues arising out of active litigation;

**WHEREAS**, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

**WHEREAS**, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Lakewood;

SECTION 1. Chapter 16 of Title 14 of the Lakewood Municipal Code is hereby repealed and replaced in its entirety with the following:

**14.16.010. Purpose.**

Recognizing that new residential development and redevelopment result in the addition of residents to the City that substantially increase usage of existing parks and require the establishment of both neighborhood and community sized parks, and that existing residents should not bear the entire burden of establishing the additional park and open space areas to meet the needs created by such increase in residential development, the City of Lakewood hereby adopts a Park and Open Space Dedication Code. Parkland dedication requirements, including fees in lieu and improvements in lieu of dedication, enable the City to require new developments to pay a proportionate share of the costs of accommodating park demand created by adding new residents to the City. This Parkland Dedication Code is not intended to limit innovation but rather to encourage the City, residential property developers and landowners to share the responsibility of innovatively meeting the park and open space needs of new residents without burdening existing residents with those costs or burdening the City with maintenance of many small sites.

**14.16.020. Scope and application.**

Each development containing residential land uses shall dedicate to the City real property to serve as park sites and open space areas in accordance with the provisions of this Code. Except as otherwise provided by this Code, at the discretion of the Director of Community Resources (Director) fees in lieu of parkland dedications or improvements in lieu of parkland dedications shall be levied as set forth herein. Improvements in lieu may include, but shall not be limited to, plazas, play spaces, dog parks, community gardens, trail segments, and dedications to connectivity for parks and open spaces. The Director shall use current City planning documents including equity mapping tools, as a guide for determining park and recreation needs in association with the proposed development,

and identify land either on the site of the development or in the area of the development that could appropriately meet neighborhood needs, and provide a means for the developer to participate in supplying the community sized parks that will be needed by the residents of the development. The park and open space requirements in this Code shall be interpreted to reasonably relate to the needs of the residents of the proposed development subject to this parkland dedication requirement.

**14.16.030. Park standards.**

For purposes of this Code, the City's park standards shall be a minimum of ten and five-tenths (10.5) acres of park area per one thousand calculated population. This standard of ten and five-tenths (10.5) acres per one thousand (1,000) population is composed of the following elements:

Five (5) acres per one thousand (1,000) population for regional parks;

Three (3) acres per one thousand (1,000) population for community parks;

Two and five-tenths (2.5) acres per one thousand (1,000) population for neighborhood parks.

**14.16.040. Regional Parks standards met; Community and Neighborhood Park needs.**

The City Council determines, as of the time of adoption of this Code, that the regional park needs of the residents of the City are satisfied by Bear Creek Lake Park, William Frederick Hayden Park, the Bear Creek Greenbelt, Jeffco Open Space Parks, and other regional parks to the west and south of the City. Therefore, a residential development shall not be obligated to dedicate land for regional park purposes in the City.

The operating standard for dedication of parkland to meet the needs of the City for community parks and neighborhood parks shall be a total of five and five-tenths (5.5) acres of parkland per one thousand (1,000) population, which can be met as provided within this Code.

**14.16.050. Calculation of land dedication requirements for park and open space.**

- A. Parkland Standard. All residential developers shall provide a minimum of five and five-tenths (5.5) acres of park area per one thousand (1,000) anticipated population of such development. All or part of that dedication may be met through a fee in lieu and/or an improvement in lieu when such alternative dedications will more effectively meet the neighborhood or community parkland needs of the residents of the development as determined by the Director.
- B. Population Factor. To provide an estimated and equitable population standard among different housing types, a population factor (representing average number of persons within the unit type) shall be applied to the calculation as follows:

- |                             |      |
|-----------------------------|------|
| 1. Single Family Detached = | 2.55 |
| 2. Multi-Family Attached =  | 1.68 |
| 3. Senior Housing =         | 1.20 |

C. Example Calculation:

Proposed development size: 10 acres

Proposed density: 10 units/acre, multi-family attached

Park and open space acreage required for both neighborhood and community parks: 10 development acres x 10 units/acre x 1.68 population factor x 5.5 acres parkland/1000 people = .924 acres of total parkland required.

- D. Dwelling Unit Changes. If an area is replatted prior to construction of the development and the number of anticipated dwelling units increases or decreases by more than ten percent (10%), the developer shall be required to adjust either the amount of parkland dedicated consistent with the aforementioned provisions and formula, or adjust the amount of park or improvement fee in lieu thereof to provide for the change in units.
- E. At the discretion of the Director, all or a portion of a park dedication to provide a neighborhood sized park or improvement in lieu may remain in private ownership, provided the privately owned parkland or improvement in lieu is open to public use. Land held by a public entity, including a metropolitan district, is not privately owned. The land area that may remain in private ownership shall:
1. Be subject to a parkland dedication agreement entered into by both the developer and the City, which shall run with the land, addressing maintenance, liability insurance, and other management concerns of the privately operated space and such agreement shall be filed with the Jefferson County, Colorado Clerk and Recorder prior to or at the time of completion of the plat or site plan;
  2. Be privately maintained to meet reasonable health, safety and accessibility standards; and
  3. Be noted on development plans as a fulfillment of parkland dedication requirements and/or be in a public access easement.

**14.16.060. Criteria for land eligible for park and open space use.**

The following criteria will apply in determining what type and nature of land will meet the requirement for dedication:

- A. Land that is accessible from one (1) location by standard maintenance vehicles.
- B. Land or water bodies contiguous to other acceptable parkland or existing parkland.

- C. Usable land within the one-hundred-year floodway fringe that would not be inundated in a five-year storm.
- D. Special areas of natural, historical or cultural significance.
- E. Public plazas, play spaces, dog parks, community gardens, trail segments, dedications to connectivity for parks and open spaces and other public spaces that are not required to fulfill other development regulations of the City.

**14.16.070. Criteria for land not eligible for park and open space use.**

The following criteria will apply in determining what type and nature of land will not meet the requirement for dedication:

- A. Land required by the City's Zoning Code for private open space.
- B. Land used to fulfill requirements of the City's storm drainage ordinances, such as detention ponds, retention ponds or drainageways.
- C. Rights-of-way and easements for irrigation ditches, laterals and aqueducts, power lines, pipelines or other public or private utilities without the written permission of the right-of-way owner.
- D. Hazardous geological land area or mineral extraction areas.

**14.16.080. Procedure and fee determination.**

- A. All requirements with respect to land dedication, fee in lieu, and/or improvement in lieu shall be satisfied in full prior to, or as part of, the approval of the final plat, final development plan, or site plan. No land dedication, fee, or improvement shall be determined at the time of building permit issuance. The amount of the fee to be paid in lieu of land dedication shall be the fee in effect at the time of formal project submittal. The Director may delay the collection of fees to the time of building permit issuance.
- B. The Director shall use current City planning documents including equity mapping tools, as a guide for determining park and recreation needs in association with the proposed development and identify land either on the site of the development or in the area of the development that could appropriately meet this need. **In exercising discretion, the Director shall have a preference for receiving parkland, open space, improvement in lieu, or a combination of such. If in the Director's determination that dedication of parkland, open space and/or improvement in lieu is not reasonably practicable, the Director shall document the basis for the decision and publish the decision on the City's website. If the development or redevelopment is going to pay 100% fee in lieu of a land dedication the Board of Adjustment shall review the Director's determination to accept a fee in lieu of parkland and/or open space dedication of development or redevelopment projects anticipated to provide housing to more than fifty (50) residents when presented with a petition within thirty**

(30) days of publication and which is signed by twenty percent (20%) or more of the property owners and adult residents located within 500 feet of the subject development or redevelopment. The Board of Adjustment shall then schedule a quasi-judicial hearing at which it will review the Director's determination pursuant to the ordinances and regulations of the Board of Adjustment. Within forty-five (45) days of the appeal having been filed the Board of Adjustment shall make a final determination. The Board of Adjustment may return the determination to the Director for further findings in conformance with its decision. All other notification and hearing procedures shall be established within the rules and regulations of the Board of Adjustment. Any appeal from the decision of the Board of Adjustment shall be to the Jefferson County District Court.

If the Director determines that a land dedication in accordance with this Code would not best serve the park and recreation needs in association with the proposed development or the purpose of this Code as set forth above, the Director may require payment of a fee and/or improvement in lieu to meet either the neighborhood parkland need, the community parkland need, or both.

- ~~G. Any residential development or redevelopment project for which an initial calculation of parkland dedication meets or exceeds ten (10) acres shall be subject to review and approval by Resolution of the City Council. The Director shall provide a recommendation to the City Council for determining park and recreation needs in association with the proposed development, and how, in the Director's opinion, those needs might be most effectively met through either a parkland dedication, fee in lieu, improvement in lieu, or through a combination of those options.~~
- ~~C~~D. All improvements in lieu of land dedication shall be of equal or greater value to the fee in lieu that would have been assessed in lieu of parkland dedication.
- ~~D~~E. The City Council for the City of Lakewood shall establish by resolution the fee in lieu of land dedication for this Code on an annual basis that reflects market fluctuations using professional appraisals, market condition surveys, or other local property valuation tools. If substantial appraisal data is not available, the City Council may also rely upon the local Assessor's data, American Housing Data and other data metrics.
- ~~E~~F. Fees shall be payable to the City of Lakewood and shall be designated for the acquisition, development, and/or improvement of park, recreation, and open space land to meet the needs of new residents to carry out the purpose of this Code as set forth above. Fees shall **generally** not be used for routine maintenance of park, recreation, and open space land. Fees may be combined with other funding sources to establish neighborhood and community parks and open spaces.

- FG.** Accessory dwelling units are exempt from parkland dedication.
- GH.** Replatting. No revision or amendment to an approved development plan or final plat pursuant to which the required land dedication has been previously proffered and accepted by the City shall create a credit in favor of, or reduce the land dedication requirements applicable to a developer, nor shall any such revision or amendment require the City to re-convey any portion of a previously accepted dedication, notwithstanding a decrease in the planned density of the development or any portion thereof. Further, no credit or refund for fees in lieu previously dedicated or paid shall be granted in the event a replat results in a decrease of residential density.
- H.** Non-residential properties converted to residential are required to meet the requirements of this Code at the time of formal submittal of an application for the conversion.

**14.16.090. Site development standards - General.**

- A. Land that has been platted as public park and open space, or otherwise dedicated to the City, shall not be used in the development process of adjoining lands, except as stated in subsections (B), (C) and (D) of this section, or as reflected in an approved subdivision grading plan.
- B. The developer shall be responsible for the installation of public improvements adjacent to any park site or improvement in lieu established at the site of the residential development, including, but not limited to, curb and gutters, streets, storm drainage facilities, and bridges made necessary by the development. Such public improvements will normally be limited to two hundred ten (210) linear feet per acre of parkland. This requirement does not include park development or tap fees unless such improvements are part of an Improvement Agreement.
- C. All slopes shall be stabilized in accordance with acceptable engineering standards to prevent public endangerment, and for ease of maintenance. The maximum slope shall normally not exceed 4:1 or other slope treatment will be required.
- D. Dedicated park and open space lands shall be made easily accessible to City maintenance equipment.

**14.16.100. Planning districts aligned by ward; Collection and expenditure of parkland fees.**

Beginning on April 1, 2025, the planning districts for parkland fees in lieu associated with neighborhood parks shall be designated as the City Council Ward of the applicable development. All fees in lieu collected for both community and neighborhood parks which were paid prior to April 1, 2025, shall be expended within the planning district associated with the development from which those funds were collected as those planning districts were defined at that time.

Fees collected in lieu of land dedication pursuant to this Code shall be expended as follows to create a variety of park and open space areas to meet the needs of the residents of the development for which the fees were paid.

- A. Neighborhood Parks. Any fees collected for neighborhood parks in lieu of land dedication shall be expended within the ward of the development in order to benefit the residents of the development for which the fees were paid. There shall be a preference for land to be dedicated from the development site to meet the neighborhood park requirements if possible. In areas of the City that have been found to be underserved as to parkland and open space relative to the rest of the City, the Director shall prioritize to the greatest possible extent expending fees on the acquisition of new parkland and open space in those neighborhoods.
- B. Community Parks. Any fees collected for community parks in lieu of land dedication may be expended anywhere within the City in order to create additional community parks to meet the additional parkland needs resulting from the increased population arising from the development for which the fees were paid, may only be expended outside the ward in which they are collected if they are being spent to place new community parkland in those areas of the City underserved by community parks. These fees may also be combined with other parkland funding sources as needed to meet community parkland needs as established by this Code.

With respect to expending fees collected for both neighborhood and community parks, the Director shall prioritize, to the greatest extent feasible, the acquisition, protection and preservation of ecologically sensitive habitats, and the preservation of native plants and species. The Director shall establish a transparent, user-friendly process for the public to provide input on where and how they would like to see these funds expended and prioritized. The Director shall provide an annual detailed report to the City Council and the public regarding how and why these fees were expended, and said report shall be prominently posted for the public's review and feedback

#### **14.16.110 Affordable/Income-Restricted Housing.**

The provisions of the Code shall be waived to support the development of affordable or income-restricted housing units and shall seek alternative funding sources to provide the residents of such development equal access to neighborhood and community parks and open spaces. This subsection shall apply to any residential development that includes **100% of units** considered affordable pursuant to the metrics outlined in Proposition 123 (C.R.S. § 29-32-101(2)), with such income restrictions documented through recorded deed restriction for a minimum period of twenty (20) years.



SECTION 2. Emergency Declaration. The City Council of the City of Lakewood hereby finds, determines and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety for the reasons enumerated in the recitals and body of this ordinance, which are incorporated into this Section 2 by reference. The City Council further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the citizens of the City of Lakewood, but if this ordinance is not adopted by an affirmative vote of two-thirds of all members of the City Council it may still be passed as a regular ordinance in conformance with the provisions of Lakewood City Charter § 7.4, to become effective thirty (30) days after final publication, and its provisions shall apply only to land use applications submitted to the City after such effective date.

SECTION 3. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that within and foregoing Ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 27th day of January, 2025; published by title in the Denver Post and in full on the City of Lakewood's website, [www.lakewood.org](http://www.lakewood.org), on the 30th day of January, 2025; set for public hearing to be held on the 10th day of February, 2025; read, finally passed and adopted by the City Council on the 24th day of February, 2025; and signed by the Mayor on the 25th day of February, 2025.

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Wendi Strom, Mayor

ATTEST:

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Jay Robb, City Clerk

APPROVED AS TO FORM:

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Alison McKenney Brown, City Attorney