ORDINANCE NO. 18065

AN ORDINANCE introduced by Mayor Harry Felker relating to the parkland development fee, amending Topeka City Code § 134-143, and repealing said original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. Topeka City Code § 134-143, Dedication, reservation and acquisition of public sites and open spaces, is hereby amended to read as follows:

Dedication, reservation and acquisition of public sites and open spaces.

(a) Generally. In subdividing the land or resubdividing land, the subdivider shall give due consideration to providing land for use as public park or open space. Public park sites shall conform as nearly as possible to the master plan for parks and open space. Such sites may be acquired by one of the following methods and in accordance with the provisions of this section: Definitions. For the purposes of this chapter, certain terms and words are hereby defined.

(1) Dedication or gift: Parkland. Any dedicated public open space specifically designed for active recreational uses, including linkages to the regional trail system, intended to serve the immediate surrounding neighborhood.

(2) Reservation/purchase option: Parkland acquisition cost. Average sale price for one (1) acre of vacant, developable land within the City of Topeka and the City’s three (3) mile extraterritorial jurisdiction. For purposes of this chapter, said fee shall be set at seven thousand five hundred dollars ($7,500.00) per acre.

(3) Purchase by public: Parkland improvement cost. Average cost to
improve a neighborhood level park with typical amenities for recreational uses.

For purposes of this chapter, said fee shall be set at twenty-two thousand seven
hundred fifty dollars ($22,750.00) per acre.

(4) *Parkland development fee.* The combination of parkland
acquisition cost and the parkland improvement cost per dwelling unit. For the
purposes of this chapter, the parkland development fee shall consist of a ratio of
twenty-five percent (25%) parkland acquisition cost, and seventy-five percent
(75%) parkland improvement cost.

(5) *Dwelling unit.* Any single-family, two (2) family, or multi-family
dwelling intended for habitation, including group living facilities.

(b) *Dedication or gift.* If the subdivider proposes to dedicate land to the public,
the plat shall designate the site as "dedicated public site." Acceptance of any proposed
dedication or gift is subject to the approval of the planning commission. *Purpose.* The
purpose of this section is to serve the communities' population growth with
neighborhood parkland based on the national recreation and parks association standard
of five (5) acres per one thousand (1,000) persons.

(c) *Reservation/purchase option.* If the subdivider proposes to set aside land
for a public site, the plat shall designate the site as "reserved for public site." The
subdivider shall enter into a written agreement with the public entity setting forth the
purchase price and expiration date of the agreement. If the public entity fails to
purchase the site, the subdivider may proceed to replat the subject property for private
use. The subject property shall be maintained by the subdivider during the period
covered by the agreement. *Parkland Development Fee.* In all instances where property
owners or developers seek approval of a final plat or re-plat of land that creates additional residential lots, a parkland development fee shall be required. All fees shall be collected by the development services division of the City public works department concurrent with the application for a building permit, or may be paid to the Clerk of the City of Topeka upon recording of the final plat. The fee shall be assessed according to the following schedule:

- Single-family and two (2) family dwelling units: $225.00 per unit
- Three (3) to eight (8) family dwelling unit development: $200.00 per unit
- Nine (9) family dwelling unit development and above: $175.00 per unit

All fees shall be deposited in the City's parkland acquisition and development fund. Fees collected shall be used for the acquisition and improvement of new parkland within the developing areas of the City, planned growth areas, or other areas consistent with the comprehensive plan.

(d) **Purchase by public entity.** Any land that is designated on the master plan for parks and open space may be purchased by negotiation or eminent domain powers. The public entity may use available public funds to purchase the site and may establish a benefit district or special assessment district from which to levy taxes. **Credit for parkland dedications.** Developers may dedicate a portion of their land for public parkland. In such instances where parkland is accepted for dedication, a credit equal to seven thousand five hundred dollars ($7,500.00) per acre, or fraction thereof, of dedicated parkland shall be applied against the balance of parkland acquisition costs required under this section. Such dedication shall not reduce the payment for parkland improvement costs as reflected in the minimum fee schedule listed below:
Single-family and two (2) family dwelling units $169.00 per unit
Three (3) to eight (8) family dwelling unit development $150.00 per unit
Nine (9) dwelling unit development and above $131.00 per unit

(e) Open-space/green areas. The subdivider may include open space or
green areas within the proposed subdivision for the exclusive and private use of the
property-owners. *Dedication criteria*. Land proposed for parkland dedication shall be
approved by the parks and recreation director prior to approval of the preliminary plat.
The parks and recreation director shall determine the suitability of the land for parkland,
and determine any improvements required to bring the land into useable condition.
Factors to be considered in evaluating potential parkland sites shall include, but shall
not be limited to, the following:

(1) All land proposed for dedication as a park or other recreational site
shall contain a minimum of three (3) acres.

(2) Not more than ten percent (10%) of the park or open space shall
contain storm-water detention/retention facilities, floodplain, or wetland, unless
such area is part of a linear trail system, or is accepted by the parks and
recreation director.

(3) The park or open space shall not have an average slope greater
than ten percent (10%).

(4) Undisturbed natural open space may be accepted for a portion of
the dedication requirements at the ratio of four (4) acres of undisturbed natural
open space, for each one (1) acre of active parkland dedication.

(5) The parks and recreation director shall have the authority to waive
or modify any or all of the above listed criteria.

(f) Maintenance responsibility. Land dedicated or purchased by a public entity shall be maintained or improvements made when the development of the surrounding territory is to the extent such public facility is needed and public funds are available. Trail dedication. Where the Topeka-Shawnee County Trails and Greenways Plan identifies a trail planned for an area within a proposed subdivision, the property owner or developer shall be required to dedicate that portion of land for a public trail easement or trail right-of-way. Any such dedication shall receive a credit as specified in subsection (d), credit for parkland dedications, herein.

(g) Other considerations prior to deeding. The parks and recreation director may require that any dedicated parkland be improved prior to dedication. Factors that may be considered shall include, but shall not be limited to, the following:

(1) To the greatest extent possible, the developer may be required to preserve existing trees or other species of vegetation, or other natural features on the land to be dedicated for a park, trail, or recreational space. Significant trees lost during the construction process may be required to be replaced with suitable species and of suitable size as determined by the parks and recreation director.

(2) Grass, or other quick establishing vegetative ground cover may be required to prevent soil erosion, according to the specifications determined by the parks and recreation director.

(3) The developer may be required to bring utilities to the boundary of the proposed park or open space and shall cap them off at no cost to the City.
Utilities may include, but shall not be limited, to gas, storm sewer, sanitary sewer, and electricity. The location where such utilities are to be brought shall be determined by the city engineer and the parks and recreation director.

(h) **Dedication process.**

(1) Land to be accepted as a park or trail under this section shall be designated as public park area or trail on the final plat.

(2) Prior to the dedication of parkland, the owner or developer shall provide the City with evidence of title in a form acceptable to the city attorney or a title insurance policy insuring the City's interest in the property. In any dedication of required land, the developer must have good and marketable title to the land, free and clear or any mortgages, liens, encumbrances, or assessments, except easements or minor imperfections of the title acceptable to the City.

(3) The parkland or trail shall be dedicated at the time of approval of the final plat. However, the City shall not accept the parkland or trail until the completion of required improvements and the approval of the parks and recreation director. All parkland reflected on a preliminary plat shall be dedicated to the City no later than the time of approval of a final plat which results in one-half (1/2) or more of the total area indicated in the preliminary plat.

(i) **Credit for private open space.** Property owners or developers may choose to reserve a portion of a subdivision for use as private open space for the benefit of subdivision residents. In such instances, a credit of twenty-five percent (25%) shall be applied against the parkland development fee as required by this chapter. All land proposed for reservation as private open space must be deemed useable and
accessible by all residents within the proposed subdivision, as determined by the
planning director, and approved by the planning commission.

Section 2. That Topeka City Code § 134-143 is hereby specifically repealed.

Section 3. This Ordinance shall take effect and be in force from and after
passage, approval and publication in the official City newspaper.

Passed and approved by the City Council August 12, 2003.

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 07/03/03 BY TBC

TO BE CODIFIED X
NOT TO BE CODIFIED