Park Dedication

Prepared for Corcoran, Minnesota

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Introduction

Corcoran's Park Dedication Ordinance was written in 1999 as a part of the 2020 Comprehensive Plan. It was followed in 2004 by the Parks and Trails Plan, written by the Parks and Trails Commission ("the Commission"). Now, however, Corcoran has a 2030 Comprehensive Plan. In this plan, the City used information collected from a Natural Resource Inventory to inform new park goals and requirements. Some of the new information is not being adequately reflected or provided for in the existing Park Dedication Ordinance.

The City is concerned that the Ordinance is out of date (specifically with regards to the Minnesota State law), that the cash amounts given as caps are not sufficient, and that implementation of correct procedure and tracking past dedications is not sufficiently set out in the document. In addition to these problems, the City and Commission wish to change the Ordinance to have it better reflect the priorities and goals set out in the new Comprehensive Plan.

Originally the City asked for a new and rewritten Ordinance that would meet these new needs, but ultimately the City will be better serviced by having a variety of options presented. In addition, this is a chance to review the dedication percentages that were chosen ten years ago, to see if they still meet Corcoran's park needs. This report includes the research, analyses, and recommendations for the issues discussed above.
State Law - Recent Changes

Minnesota's subdivision regulations, including dedication, were updated in 2009. The entirety of the regulations (462.358) are included at the end of this report, but Subdivision 2B and 2C will be summarized here, as they are the most relevant to this report.

Subdivision 2b details that regulations may require a reasonable portion of buildable land to be dedicated for a variety of uses (parks, trails, playgrounds, etc. included). Municipalities must also have a parks plan or parks component to a comprehensive plan to complement the ordinance, which Corcoran obviously does. It is also explained that municipalities may choose to accept cash as set by ordinance, based on fair market value of the unplatted land. It does not stipulate any details for cash caps, so Corcoran's current procedure for cash in lieu of land is acceptable. The statutes go on to ensure that regulations give due consideration to the kinds of open space proposed for dedication, that a municipality must be able to use the land for the purposes expected (trails, parks, wetlands, open space, etc.; see Sbd 2B (a) for all uses), and that cash payments be placed in a park fund for development of parks. Corcoran's Park Dedication Ordinance has covered all of these things already.

Subdivision 2C describes the "nexus" that must occur between fees or dedication and the purpose sought to be achieved by the fee or dedication.
This is to ensure that there is "rough proportionality" between the fee or dedication and the need created by the new community. In response to this requirement, this report details some decisions the City needs to make with regards to the needs of various land use areas and the amount of land to be dedicated. The next section delineates the changes to consider to ensure a nexus is in place.

In addition to dedication, the Commission brought up another question about the statutes that can be quickly answered here. Subdivision 1A states municipalities may adopt regulations for subdivisions, and extend those regulations to land within two miles of its limits if that land does not have its own subdivision regulations. For Corcoran, that land could fall in Greenfield, Independence, Medina, Plymouth, Maple Grove, Dayton, Hassan Township, and Hanover. As all of these municipalities have their own regulations, Corcoran does not need to worry about any land outside its borders.
Corcoran's Park Dedication Ordinance is quite detailed. Many cities have far fewer specifications for the desired standards of park dedication. For example, the city of Aitkin, Minnesota's park dedication standards take up less than a page and don't include details as such, but rather are general guidelines for dedicating any kind of public land. There are varying levels of detail, of course, and the dedication standards for Aitkin are on the lower end of the spectrum. Nonetheless, most cities tend to have a good deal more detail than Aitkin, although the value of various amounts of detail is unclear, and the majority of the ordinances tend to focus their details on the reviewing and administrative procedures.

Many cities choose to use the standard that 10% of the land to be subdivided should instead be dedicated park land (or equivalent value in cash given to the city for parks). Aitkin, for instance, requires 10% of land to be dedicated for all land uses. Other cities use this standard as a starting point--for instance, Albertville, MN requires 10% of land to be dedicated for subdivisions with less than 9 units per acre. Where subdivisions plan on 9 or more units per acre, there is a stepped increase dedication requirement.

It is even more common for cities to use the 10% standard for commercial land use dedication. From a random sampling, approximately 75% of cities require 10% land dedication for commercial land uses. Interestingly, however, cities which do not require 10% generally require
lower dedication. Blaine, MN, for example, requires only 3% of land in commercial areas to be dedicated. Glencoe, MN requires 7%.

Corcoran's Ordinance requires 10% of residential land with less than 6 units per acre to be dedicated. Subdivisions on residential land with 6 or more units per acre must dedicate 12% plus 1% for each additional unit per acre over 6. The Future Land Use Map in the 2030 Comprehensive Plan shows that there is very little area expected/desired to actually include more than 6 units per acre (medium/high residential). Most of the residential land use is "Rural/Ag residential" or low density residential (defined as 3-5 units per acre). Even with the increase in density expected and planned for in the Comprehensive Plan (due to expanding sewer services), most of Corcoran is low density. Because of the amount of land covered by the term “low density”, I believe the required 10% for all of this land is inadequate. The variety of densities included in the Future Land Use Plan would be better served by a stepped system of percentage requirements. As an example, Blaine, MN requires 5% of land to be dedicated for densities of 0-1 units/acre, 10% for 2-3, 12% for 4-5, 14% for 6-7, 16% for 8-12, 18% for 13-16, with additional percents for densities higher than 16 units/acre. Although these densities are a bit higher than Corcoran's land use plans, the use of a stepped percentage requirement is a good precedent for Corcoran to consider. In addition, Rural/Ag residential uses should perhaps be in a separate category to account for the difference in land values in those areas.
Corcoran does employ this stepped system for higher densities, and it appears to be appropriate at this time; however, as the expected development occurs in the next decade, I encourage the Commission and City Council to revisit these numbers and determine if the higher density areas are placing the expected burden on the parks system.

**The Cash Cap**

Corcoran's Park Dedication Ordinance, Subdivision 6A, states the following: "In no event shall the cash in lieu of land payment exceed $6,000 per residential unit." There is a similar wording, with a $4,500 cap, for commercial uses (6C). Concern over these numbers, set in 1999, is legitimate for a variety of reasons. Not only do market values for properties change with trends in the housing market, they also fluctuate year to year. Knowing this, the authors of the Ordinance included Subdivision 6B, stating "The City Council shall review the maximum cash in lieu of land payment at least every 2 years, to ensure that it remains consistent with park and trail system development costs." This requirement, however, has never been followed.

No other city ordinances that were read by this researcher contain a specific cash cap such as Corcoran does. Albertville, MN's ordinance does contain an actual cash fee for cash in lieu of land payment: $3,300.00 per residential unit, $8,200.00 per acre subdivided of commercial development,
and $2,500.00 per acre subdivided of industrial development. However, these are not caps--Albertville has set a fee regardless of fair market value. Corcoran has set a fee limit as a cap on the "equivalent market value in cash" amount. Most ordinances stipulate that the cash in lieu of land payment should equal fair market value, and there is often a method for calculating that value, but they do not contain a cap on this amount.

Arden Hills' Ordinance is a good example of this, as follows:

D. Cash in lieu of dedication. In lieu of the dedication of land for recreational and conservation purposes, the City Council may require the developer to pay to the City, as an equivalent contribution, an amount in cash equal to the percentage of the land required to be dedicated, multiplied by the fair market value of the property at the time of final approval of the development application. The fair market value of the property shall be determined by reference to current appraisal data or sales information. When appraisal data is utilized, the developer shall reimburse the City for the cost of the appraisal prior to the issuance of any development permits.

As the City of Arden Hills shows, it is very likely that removal of the cash cap altogether would be an acceptable solution. The Parks and Trails Commission has expressed reservations, however, with this solution, so the following possibilities should also be considered.

The numbers given in the Ordinance are based on a formula developed by the Planning Commission. This formula should be revisited and
considered for its continued appropriateness--however, if it the formula is
deemed to be adequate, a minimum change would be to simply recalculate
based on current market value and economic conditions. This is not a long-
term solution, however, since the numbers have not been revisited as
expected in the past, and recalculating necessitates consistent revisiting to
ensure the numbers are up-to-date. If this is the route the City chooses to
go, a coordinated effort needs to be made to revisit the formula and
recalculate each year. If cap amounts are retained, the City should consider
moving the actual dollar amounts (as well as all other fees for the city) to a
separate "fee schedule" ordinance. This is a more sustainable option than
keeping the numbers themselves in the Ordinance, because if the amount is
in the subdivision ordinance and the City decides to change the amount, a
public hearing process is necessary to make the change, which is costly and
time-consuming. If the amount is in the fee schedule, the fee schedule can
be changed by simple motion of the City Council.

Another possibility is to include the formula itself in the Ordinance. The
fees could be calculated on an as-needed basis, and each time a dedication
is in question, the formula could be used to determine the cash cap at that
particular time. This solution may be the most appropriate because of the
constantly changing value of land.
Splitting Fees and Land for Park Dedication

The City of Corcoran wishes to have a way of splitting park dedication requirements between land and fees. Albertville, MN has verbiage for this in their Park Dedication Ordinance, as follows:

B. Residential Dedications...

...3. Combination Land And Cash Dedication:
The city may require the applicant or developer to make a combination cash and land dedication pursuant to the following formula: (Amended Ord. 1988-8, 9-8-1988)

a. The amount of land which could be required in accordance with this section shall be calculated.

b. From the total calculated in subsection B3a of this section, the actual amount of land the city determines to be needed to fulfill the purposes of this section shall be subtracted.

c. The balance arrived at in subsection B3b of this section shall be converted into a cash contribution in lieu of land dedicated pursuant to subsection B2 of this section. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

What this Ordinance has stipulated, then, is a simple subtraction. The amount of land needed to "fulfill the purpose" (meet the needs) is subtracted from the total dedication, and what remains becomes the cash fee required. I recommend using this method in Corcoran's own Ordinance
for a simple way of splitting park dedication requirements between cash and land.

**Tracking**

The City has encountered difficulty keeping track of past dedications. There appears to be a need for more communication between the Parks and Trails Commission, the Planning Commission, and the City Council. It is unclear whose role in the dedication process includes recording the dedications, particularly in a map. The Parks and Trails Commission, being all-volunteer based, should probably not assume this responsibility, despite their investment in the result. The City Council, on the other hand, should not have too much trouble delegating the recording and tracking of dedications to an employee of the City. Optimally, a GIS system would be utilized to document the locations of dedicated land. Hennepin County's website has a Property Map and a Park Locator, made using GIS. With some GIS training, it would not be difficult to use this data to create a similar map for Corcoran. This is what Albertville, MN does--in fact, the City Administrator for Albertville described the process as being fairly painless, letting staff handle the documentation of dedications in a GIS system.

In addition, it is important to have a clear dialogue between the Commission and the rest of the participants in the procedure. Once the Commission passes off a subdivision approval, it is difficult to find out what
happens in the next steps of the process. It is recommended, therefore, that the City Council review recent dedications with the Commission to ensure the Commission is kept up-to-date. The procedure as it stands now is described in the next section below, and it is worth noting that there is no required communication between the Council and the Commission after the Commission makes its recommendations.

**Parks and Trails Recommendation Timing**

Subdivision 3B of Corcoran's Park Dedication Ordinance stipulates the procedures for park dedication recommendations. Corcoran's current procedure is for the Parks and Trails Commission to review the preliminary plat and recommend the land to be dedicated (or cash amount) for park use. There is a clause, however, that states that if the Commission's review would delay the approval process (because of meeting times) and the project would not meet the time limitations imposed by the state (the "60 day rule"), the Commission review may be waived.

This clause provides a loophole if the applicant wishes to bypass the Commission's recommendation. While the current planner has had no trouble with this, it is possible that future staff will run into an applicant attempting to manipulate the timing to avoid an unappealing recommendation. This clause should be carefully considered and perhaps taken out if it is deemed detrimental to the Ordinance's goals. It should be
noted that the City has the ability to extend the review period for an additional 60 days if it gives the applicant written notice of the extension and the reasons, and perhaps utilization of this would be sufficient to ensure the Commission is able to make its recommendation.

**Private Parks**

Corcoran's Parks and Trails Plan discusses many goals for the city's park system, but private parks are not mentioned. The City needs to determine what its goals and standards are for private parks in the community. Currently, the Park Dedication Ordinance allows 20% of required land dedication to be designated as a private park. The City needs to ensure that this is a justified number, because it is possible for a private park to meet all (100%) of the need created by a subdivision. The way the Ordinance and Parks and Trails Plan are written now reveals a discrepancy, in that the Ordinance stipulates requirements for private parks (however they were created) while the Parks and Trails Plan (which the Ordinance is supposed to adhere to) does not mention private parks at all.

Additionally, the following issues should be considered with regards to private parks in Corcoran. If the goal is to ensure that all areas of the city are within a certain distance of a park, private parks may serve the subdivision but may not serve other homes within the distance radius. Thus there is access inequity. Unless private parks are required to have a
permanent easement restricting future development, there is also the risk that the landowner (likely a homeowners' association) could convert the land to some other use, functionally removing a park and increasing the burden on other parks in the community. There is also the well-known issue of park management - private parks should be required to have a management plan and dedicated funding in place to ensure they do not fall into disuse or disrepair. These are all things to consider when thinking about what the residents of Corcoran want in their parks and neighborhoods. However the City feels about these issues, the desired relationship should be used to inform changes to the Ordinance, Parks and Trails Plan, or both.

**Green Corridor**

The 2030 Comprehensive Plan identifies a green corridor for potential and desired connectivity of natural resources. This corridor could provide access to and from parks and other places of interest via trails, but perhaps more importantly, it shows a step in the right direction for sensitivity to ecological issues. Wildlife habitat connectivity is becoming increasingly important as our natural areas are becoming more fragmented, and the identification of connections between open areas is a key step in keeping some of our ecological communities intact. For Corcoran to fully utilize this resource, the green corridor should become more of a priority. This can be achieved with the use of an overlay zone. There are two main options:
This zone could be considered "low density," and would then include a transfer of development rights, where landowners within the zone are restricted to low density development. This would allow landowners to sever development rights from properties within the green corridor, and sell them to purchasers who want to increase the density of development in other areas (areas of higher density). This would also be a way of treating the areas identified as higher density within the MUSA line as per the change in the 2030 Comprehensive Plan.

Or, another alternative is for the overlay zone to supplement the underlying zoning standards with additional requirements that can be designed to protect the natural features and ensure more connections in the corridor. A parcel within the overlay zone will thus be simultaneously subject to two sets of zoning regulations: the underlying and the overlay zoning requirements. The overlay zoning requirements could be simple or complex: perhaps stricter development requirements or higher park dedication requirements are in order.

Whatever option is chosen, the easiest, least controversial, and most effective means of acquiring land in the green corridor is to have it donated by landowners. This would preclude dedication completely, as well as leave a legacy for future generations--not to mention it would include a tax incentive for the landowner. A push to educate landowners whose parcels fall within
the green corridor could result in an increase in acquisition of the desired land.

**Summary**

Corcoran's Park Dedication Ordinance is an important document that needs to be easily and appropriately utilized for Corcoran's park goals to be achieved. To ensure its effectiveness, the City needs to make decisions about its land uses and what kinds of needs are placed on the community when new subdivisions develop in different areas of the City, and about how to prioritize its natural areas. In addition, the City needs to adopt clearer measures for implementation and documentation, and these goals are easily within reach.
A. General Requirements:

1. Applicants for the subdivision of land and developers of land within the city shall be required to dedicate to the city for park, playground, and public open space purposes the following minimum amounts of land or cash, or both, whichever the city, at its option, shall require. The required dedication shall be made prior to the city's release of the final plat for filing. The amount of any required cash contribution shall be calculated based upon rates established by the city and in effect as of the date of the release of the final plat for filing. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

2. Land to be dedicated for public use shall be reasonably suitable for its intended use as determined by the city and shall be at a location convenient to the public to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, vegetation, access and location.

3. The applicant shall consult with the planning commission, at the time the preliminary plat is under consideration, to secure their recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds or other public property. The preliminary plat shall show the location, area, and dimensions of all areas to be dedicated in this manner. Such contribution requirement recommendation(s) will be sent to the city council for their approval. (Amended Ord. 1988-8, 9-8-1988)
4. When a proposed park, trail or sidewalk located outside of a street right of way, playground, recreational area, or other public ground has been indicated in the city's official map, comprehensive land use plan or comprehensive park and trail plan and is located in whole or in part within a proposed plat, it shall be dedicated to the city. If the applicant elects not to dedicate an area in excess of the land required hereunder for a proposed public site that the city feels is in the public interest to acquire, the city may consider acquiring the excess land through purchase or condemnation. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

5. Land area conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinance and shall be in addition to and not in lieu of open space requirements for planned unit developments.

6. Where private open space for park, trail, playground, open space or other 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 purposes described in this title, provided the city council finds it is in the public interest to do so and that the following standards are met:

   a. That yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and

   b. That the private ownership and maintenance of the open space is adequately provided for by written agreement; and
c. That the private open space is restricted for park, playground, trail, open space or recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the city council; and

d. That the proposed private open space is reasonably adaptable for use for such purposes, taking into consideration such factors as size, shape, topography, vegetation, geology, access and location of the private open space land; and

e. That facilities proposed for such purposes are in substantial accordance with the provisions of the recreational element of the comprehensive plan or comprehensive park and trail plan, and are approved by the city council; and

f. That where such credit is granted, the amount of credit shall not exceed twenty five percent (25%) of the amount of dedication as calculated herein.

7. The city, upon consideration of the particular type of development, may require larger or lesser parcels of land to be dedicated if the city determines that present or future residents would require greater or lesser land for park and playground purposes. In addition, the city council may also require lots within the subdivision be held in escrow for future sale or development. The monies derived from the sale of escrowed lots will be used to develop facilities or to purchase park land in the future.

8. If an applicant is unable to make a commitment to the city as to the type of building that will be constructed on lots in the proposed plat,
then the land and cash contribution requirement will be a reasonable amount as determined by the city council.

9. Wetlands, ponding areas and drainageways accepted by the city may not be considered in the park land and/or cash contribution to the city.

B. Residential Dedications:

1. Land Dedication: Land shall be dedicated pursuant to the following schedule wherein density is calculated by considering the total gross acreage of the entire plat, subdivision or development being considered:

<table>
<thead>
<tr>
<th>Dwelling Units Per Gross Acre</th>
<th>Dedication Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 9</td>
<td>10 percent of subdivision area</td>
</tr>
<tr>
<td>9 and more</td>
<td>11 percent of subdivision area, plus an additional 1/2 percent for each additional dwelling unit per acre over 9</td>
</tr>
</tbody>
</table>

(Amended Ord. 1988-8, 9-8-1988)

2. Cash Contribution In Lieu Of Land Dedication: A cash contribution in lieu of land dedication may be required pursuant to subsection 11-2-7A5*** of this title. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

3. Combination Land And Cash Dedication: The city may require the applicant or developer to make a combination cash and land dedication pursuant to the following formula: (Amended Ord. 1988-8, 9-8-1988)
a. The amount of land which could be required in accordance with this section shall be calculated.

b. From the total calculated in subsection B3a of this section, the actual amount of land the city determines to be needed to fulfill the purposes of this section shall be subtracted.

c. The balance arrived at in subsection B3b of this section shall be converted into a cash contribution in lieu of land dedicated pursuant to subsection B2 of this section. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

C. Commercial, Industrial And Public/Institutional Dedications:

1. Land Dedication: Land dedication, if required, shall be ten percent (10%) of a commercial or public/institutional (except schools and public recreational facilities) subdivision or development and five percent (5%) of an industrial subdivision or development. (Amended Ord. 1988-8, 9-8-1988)

2. Cash Contribution In Lieu Of Land Dedication: A cash contribution in lieu of land dedication may be required pursuant to subsection 11-2-7A5 of this title. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

3. Combination Land And Cash Dedication: Where a combination land and cash dedication is made, the lands dedicated will be deducted from the total park dedication land requirement and the balance of acreage will be multiplied by the current per acre dedication rate.
4. Existing Lots Of Record: In cases where existing lots of record (platted or unplatted) are being developed, such properties shall be subject to park dedication requirements if:

a. The development involves the subdivision, replatting or combination of property under the terms of this title; and

b. Park dedication requirements have not been previously satisfied and the property or lots must have been originally subdivided after September 8, 1988. It shall be the property owner's responsibility to show proof of past park dedication payment. (Amended Ord. 1988-8, 9-8-1988)

D. Combination Cash, Land And Development Of Land For Park Use: The city may elect to receive a combination of cash, land and development of the land for park use. In this case, the city may reduce the amount of land to be dedicated or the cash contribution in lieu of land dedication by an amount equivalent to the cost of the facilities provided.

E. Planned Unit Development: Planned unit developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.

F. Unplatted Lands: In the event the city waives the requirement that an applicant or developer proposing to subdivide land plat the same, the city council may require the applicant or developer, as a condition of granting such waiver, to dedicate parks (or pay cash in lieu thereof), trails, and open space in a manner consistent with the provisions of this section.

G. Divided Land With Same Number Of Lots; Increase In Lot Number: Property being divided with the same number of lots shall be exempt
from all park land dedication requirements. If the number of lots is
increased or if land outside the previously recorded plat is added, then
the park land dedication and/or park cash contributions shall be based on
the additional lots and on the additional land being added to the plat. If
the additional land does not create additional lots, then each one-third
(1/3) acre added shall be considered a new lot for purposes of calculating
the dedication requirements.

H. Additional Dedication Requirements:

1. Generally: The following requirements apply to all dedications or
   conveyances for park, playground, trail or public open space purposes:

   a. Land conveyed or dedicated pursuant to the provisions of this
      section must be located outside of drainageways, wetlands,
      floodplains and ponding areas after the site has been developed.

   b. As part of their development contract or site plan approval
      responsibilities, applicants and developers shall be responsible for
      making certain improvements to the developments for park,
      playground, trail/sidewalk and public open space purposes
      including, but not limited to, finished grading and ground cover for
      all park, playground, trail and public open spaces within their
      developments.

   c. Dedication credit shall not be granted for the construction of
      recreational facilities unless a specific agreement granting credit is
      approved by the city council. This paragraph does not affect the
      requirements of subsection H1b of this section.
d. The development agreement for subdivisions within which parks, trails, or open spaces are to be located shall include language requiring the disclosure of such elements to the public/prospective lot owners.

2. Trail Dedications:

   a. Unless otherwise required by the city council, the developer shall be required to dedicate trails and/or construct sidewalks consistent with the comprehensive park and trail system plan which shall be used as the guide for the installation of trails/sidewalks in the city. The plan shows the desired locations and types of trails and sidewalks which shall be followed as a general rule. Final determination as to trail/sidewalk locations, types, and sizes shall be determined at the time of preliminary plat approval.

   b. The developer shall be required to construct all trails/sidewalks within subdivisions. The cost for installation of trails located outside of a public street right of way shall be counted as credit toward park dedication requirements, calculated at one hundred five percent (105%) of the construction bid price. Trails and sidewalks constructed within road rights of way shall not be credited as park dedication. All trails/sidewalks shall be constructed to city specifications "City's Standard Detail Plates", as may be amended by the city council) and shall be completed prior to or at such time as the wear course of asphalt is installed on the streets.

   c. Where trails and/or sidewalks are to be located outside of public street rights of way, the developer shall be required to dedicate a minimum thirty foot (30') corridor for the establishment of said
trails. The location of trails within corridors or easements shall be determined at the time of preliminary plat approval.

d. In special cases where trails are predominantly located within public rights of way but extend outside such areas to improve functioning or to avoid obstacles, trail easements may be accepted. In these cases, lot depths must be increased to accommodate the width of the easement.

e. Commercial, industrial and public/institutional subdivisions shall be required to establish easements for trails/sidewalks required, and such action will not necessitate a change in the required lot size or setback requirements.

f. In cases where existing lots of record (platted or unplatted) are being developed as commercial, industrial or public/institutional uses (including schools and public recreational facilities), such properties shall be subject to trail dedication requirements if:

(1) The development involves the subdivision, replatting or combination of property under the terms of this title; and

(2) Trail dedication requirements have not been previously satisfied, and the property or lots must have been originally subdivided after September 8, 1988. It shall be the property owner's responsibility to show proof of past trail dedication or payment.

I. Suitable Condition: Areas to be dedicated for public park, trail, or open space shall be brought to a suitable condition by the subdivider prior to acceptance by the city. This shall include the following: all dead trees,
trash, junk, unwanted structures or similar undesirable elements shall be removed by the owner at his expense; on grades or exposed areas which are not sodded, lawn grass seed shall be sown at not less than four (4) pounds to each one thousand (1,000) square feet of land area; seeding and germination testing shall take place on a schedule set forth by the city at the time of the conveyance; seeding shall consist of a maximum of ten percent (10%) rye grass by weight and a minimum of ninety percent (90%) of permanent bluegrass and/or fescue grass by weight. The applicant shall submit an agreement in writing signed by the developer that respraying of soil and seeding of lawn will be done during the immediately following planting season as set forth in this chapter and provide a performance bond to guarantee said seeding. Said condition shall also be in accordance with the city’s resolution on condition of acceptance of public parks and trails in Albertville.

J. Title And Survey Requirements:

1. Lands dedicated for public park, trail or open space shall be accompanied by a certificate of survey or shall be designated as a park, trail or public open space area on the plat as determined by the city. Lands dedicated for public parks shall be dedicated as a legal lot of record and not as an outlot. Ponding areas not located within public park or open space areas to be dedicated to the city under the terms of this section shall be dedicated to the city as an outlot rather than easement, unless otherwise approved by the city council.

2. Further, such lands shall be free and clear of all liens and encumbrances including special assessments as evidenced by an up to date abstract of title or registered property abstract to be submitted, at the applicant's cost, to the city for its examination.
3. Such dedication shall be in the form and manner as prescribed by the city.

K. Time Limit For Cash Payments: A cash contribution required by the city shall be made at the time of final plat approval by the city council or as specified by the applicable development contract.

L. Funding; Accounting: The city council shall establish a separate fund into which all cash contributions received from owners and developers in lieu of conveyance or dedication of land for park, playground, trail and open space purposes shall be deposited. The city council shall establish separate budgeting and accounting procedures for such fund and shall make, from time to time, appropriations for such purposes, for developing existing parks, or the development of new park facilities. (Amended Ord. 1988-8, 9-8-1988; amd. by 2005 Code)

Source: http://www.ci.albertville.mn.us/2005 City Code/2005 City Code.htm?imageField.x=70&imageField.y=16
(g) Park dedication. Whenever any land in the city is subdivided by any process including, but not limited to, subdivision, registered land survey, metes and bounds, or whenever any land within the city is to be built upon where no previous park fee was paid, the policy of the city is to require dedication for park land and facilities in accordance with the policies detailed in this section. If property, which was subject to a park dedication fee or dedication of land computed on the basis of a use that is not constructed, is to be subsequently developed with uses that would require an additional fee for dedication of additional land, there shall be a credit for the amount previously paid or dedicated.

(1) Because the subdivision of land results in additional development in the community, and thus causes additional demand upon the recreational park facilities located therein, the subdivider shall dedicate lands for park purposes or pay a park dedication fee as determined in this section. Because of the current status of the park and recreational system for the city, and particularly the amount of undeveloped park coincide with the areas being subdivided. Consequently, the council determines that contributions by subdividers to the development of recreational park facilities should be primarily by payment of park dedication fee rather than land dedication. Park dedication fees shall be deposited in the special park fund and used solely for the purchase of parks or improvement of parks, playgrounds, community centers, or other recreational facilities in accordance with the park and recreational segment of the city’s comprehensive plan. The park advisory board shall make a recommendation to the city council as to the location of any sites or facilities to be purchased with such funds.
(2) Where a proposed park site is shown on the future land use plan of the city, and is located in whole or in part in the area being subdivided, the subdivider shall delineate such land on the final subdivision plat. Land in excess of the land required to be dedicated may be dedicated by the developer as part of the subdivision approval. Land in excess of that required or agreed to be dedicated shall be differentiated by symbol on the final plat from the land to be dedicated. The acquisition of such additional land, other than required public right-of-way, may be acquired by the city at the cost of unimproved land at the time of final plat approval. Land reserved in excess of the amount of land required or agreed to be dedicated shall be reserved for acquisition by the city for one year from the date of approval of the final subdivision plat. The city may waive this requirement if it does not plan to acquire the land within the year.

(3) If a required public right-of-way exceeds 80 feet in width, such right-of-way shall not be included in the gross area of the subdivision for purposes of park dedication. Whenever a parcel of land is subdivided into lots containing one or more acres and such lots may eventually be subdivided into smaller lots, the city council may require that such parcel of land be divided, so as to allow for the future construction of bike/walk paths or trails. Easements providing for the future opening and extension of such path or trails may be made a requirement of the plat. The water surface area of required holding ponds shall not be included in the gross area of the subdivision for purposes of park dedication.
(4) Determination of land to be dedicated or fees to be paid:

a. **Land amount.** The amount of land required to be dedicated by a developer shall be based on the gross area included in the subdivision, which would be developed for residential, commercial, or industrial purposes and shall be determined by the following formula:

1. **Residential.**

<table>
<thead>
<tr>
<th>Dwelling Unit/Acre</th>
<th>Land to be Dedicated</th>
</tr>
</thead>
<tbody>
<tr>
<td>0–1</td>
<td>5 percent</td>
</tr>
<tr>
<td>2–3</td>
<td>10 percent</td>
</tr>
<tr>
<td>4–5</td>
<td>12 percent</td>
</tr>
<tr>
<td>6–7</td>
<td>14 percent</td>
</tr>
<tr>
<td>8–12</td>
<td>16 percent</td>
</tr>
<tr>
<td>13–16</td>
<td>18 percent</td>
</tr>
</tbody>
</table>

*For each unit over 16 acre, add 0.5 percent*

2. **Industrial.** The park dedication requirement for an industrial subdivision shall be three percent of the gross area.

3. **Commercial.** The park dedication requirement for a commercial subdivision shall be three percent of the gross area.

b. **Fee amount.** The park dedication fees to be paid by a developer shall be based on the cost to provide neighborhood parks, to improve existing community parks and to acquire and develop
new community parks, community recreational facilities, trails and public open space.

1. *Residential.* The city council shall determine by action the park dedication fee for each type of residential unit permitted within the city.

2. *Industrial.* The city council shall determine by action the park dedication fee for industrial development. This fee shall be computed on a per-acre basis and shall not exceed three times the park dedication fee for a single-family residential unit.

3. *Commercial.* The city council shall determine by action the park dedication fee for commercial development. This fee shall be computed on a per-acre basis and shall not exceed three times the park dedication fee for a single-family residential unit.

c. *Procedure.* Because differing amounts of land, or no lands at all, will be required, the following procedure will be used:

1. If the city council determines that specific land within the subdivision is desired for park purposes, the subdivider shall convey marketable title by warranty deed, free and clear of all encumbrances, as verified by the city attorney.

   i. If the amount of land is less than the percentage required to be dedicated, the subdivider shall pay in addition, an amount determined by multiplying the park dedication fee otherwise payable, by the total number of units approved for development, less the fair market value of the unimproved land dedicated.
ii. If the amount of land is greater than the percentage required to be dedicated, the city shall pay to the subdivider the fair market value of the unimproved land in excess of the percentage required to be dedicated, which value shall be determined at the time of final plat approval.

2. If the city elects to accept cash in lieu of land, the subdivider shall pay to the city the amount of the fee as determined by action of the city council.

d. **Savings clause.** If any of the procedures for the determination of the park dedication fee are determined by any court to be invalid for any reason whatsoever, the park dedication fee shall then be determined as follows:

1. The city manager shall determine the fair market value of the unimproved land to be divided at the time of the final approval.
2. A percentage equal to the percentage of land to be dedicated shall be applied to the fair market value in addition to the cost of developing parks and shall be the park dedication fee.

e. **Definition.** The term "fair market value" means a price that a willing buyer would pay and a willing seller would accept for the unimproved land or influences as determined by the city manager but excluding any buildings or structures located thereon.
f. *Park board review.* The director of planning/economic development, or his designated representative, shall transmit a copy of all preliminary plats involving land to be dedicated for parks to the director of parks and recreation, who shall review the plat with the park board and report back to the director of planning/economic development within 30 days on the appropriateness of any proposed park dedication.

Source:

[http://www.ci.blaine.mn.us/_InsideCityHall/_Administration/_CityClerk/_OfficialRecords/_Code_Home.cfm](http://www.ci.blaine.mn.us/_InsideCityHall/_Administration/_CityClerk/_OfficialRecords/_Code_Home.cfm)
(a) The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities as defined in section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

(b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs (c) to (i).

(c) The municipality may choose to accept a cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on the average fair market value of the unplatted land for which park fees have not already been paid that is, no later than at the time of final approval or under the city's adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well as authorized by state law. For purposes of redevelopment on
developed land, the municipality may choose to accept a cash fee based on fair market value of the land no later than the time of final approval.

(d) In establishing the portion to be dedicated or preserved or the cash fee, the regulations shall give due consideration to the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision.

(e) The municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision.

(f) Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

(g) Cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

(h) The municipality must not deny the approval of a subdivision based solely on an inadequate supply of parks, open spaces, trails, or recreational facilities within the municipality.

(i) 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.

Subd. 2c. **Nexus.**

(a) There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

(b) If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

(c) An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the municipality on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is not filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

Source: [https://www.revisor.mn.gov/statutes/?id=462.358](https://www.revisor.mn.gov/statutes/?id=462.358)
Other Resources

The City may wish to refer to the following resources for more information:


Benedict, Mark A. 2006. Green Infrastructure: Linking Landscapes and Communities. Washington, D.C. Island Press. In this wide-ranging primer, leading experts in the field provide a detailed how-to for planners, designers, landscape architects, and citizen activists interested in maintaining or enhancing green infrastructure, from the parcel-level to the level of multistate regions.