Ordinance No. 2975

(Amending or Repealing Ordinances)

CFN=458 – Subdivision Code
Passed 3/19/1991
Establishes Land Dedication Requirement for Parks and Open Space

Amended by Ord. 3511;3561;3664;3830
Amended by Ord. 3906 (Ch. 12.04)
Amended by Ord. 3944 (Sec 12.04.025)
ORDINANCE NO. 2975

AN ORDINANCE of the City of Kent, Washington, amending the Subdivision Code, Ordinance 2849, establishing a land dedication requirement upon subdividers to provide for public parks and open space; and, alternatively, a method to compute fees in lieu of land dedication; amending the Kent City Code to add a new Section 12.04.450, and renumbering Sections 12.04.040 through 12.04.079 to add new Sections 12.04.041, 12.04.046, 12.04.057 and 12.04.059.

WHEREAS, there exists in the City of Kent a general and increasing need for parks, open spaces and recreational facilities to serve the expanding population of the City; and

WHEREAS, the need for parks, open space and recreational facilities is acute at the neighborhood and community level due to population increases from residential development; and

WHEREAS, state statute requires that local governments make appropriate provision for the establishment of parks and open space at the time of proposed subdivision approval (RCW 58.17.110); and

WHEREAS, a system of requiring dedication of suitable land for neighborhood and community parks, open space and recreation facilities or payment of a fee in lieu of such dedication from developers at the time of subdivision approval will more equitably address the needs of the community; and
WHEREAS, the reference to certain areas as established in the Parks Comprehensive Plan as park service areas is necessary for the purpose of defining areas within which land and fees in lieu of dedication will be accepted and utilized to meet community and neighborhood park, open space and recreational needs; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 12.04.040 through 12.04.079 of the Subdivision Code (Ordinance 2849, as amended) is hereby renumbered and amended to add the following definitions:

12.04.041. Active Recreation. All outdoor recreational activities which involve field and court games.

* * *

12.04.046. Community Park. A park twenty (20) to forty (40) acres in size which provides off-street parking and serves a population of 10,000 to 15,000 people located within a two (2) to three (3) mile service radius.

* * *

12.04.057. Neighborhood Park. A park five (5) to ten (10) acres in size which may have off-street parking and serves a population of 2,000 to 10,000 people located within a one-half to one (1) mile service radius.

* * *
12.04.059. Park Service Area. Those three areas located and defined in the Comprehensive Parks Plan of the City of Kent, as adopted by ordinance, which shall be used in determining eligibility of land under the dedication requirements of Section 12.04.450. herein.

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Section 2. The Subdivision Code (Ordinance 2849) is hereby amended to add the following new section:

12.04.450. PARKS AND OPEN SPACE -- DEDICATION OR FEES REQUIRED. Approval of all subdivisions located in either single family residential or multi-family residential zones as defined in the Kent Zoning Code, Title 15, shall be contingent upon the subdivider’s dedication of land or providing fees in lieu of dedication to the City, all as necessary to mitigate the adverse effects of development upon the existing park and recreation service levels. This requirement shall not apply to lots of 43,500 square feet or larger in size, planned unit developments or subdivisions of four (4) or less lots.

A. CRITERIA FOR DEDICATION. The following criteria shall serve as a basis for the Parks Department’s determination whether land proposed for dedication is of sufficient size, character and quality:

1. The proposed area for dedication may be located either within or without the subdivision for which it is required, but must either be:
a.) adjacent to an existing or proposed City park site; or

b.) within the same Park Service Area in which the subdivision is located; or

c.) within one mile of the subdivision for which it is required.

2. The proposed area for dedication shall have characteristics and location which make it suitable for future inclusion into the Kent Parks System, as determined by the Parks Director.

3. With the approval of the Planning Department, the proposed area for dedication or portion thereof may contain valuable or sensitive environmental features, preservation of which is consistent with the City's Comprehensive Plan and/or Parks and Recreation Plan.

4. The proposed area for dedication shall, in the determination of the Parks Director, further one or more Comprehensive Plan policies dealing with the open space element, steep slopes as open space, wetlands as open space, agricultural lands as open space, wildlife habitat as open space and heritage sites as open space.

5. All lots within the subdivision for which dedication is required shall have legal and convenient access to the proposed area, at the time of final plat approval.
6. The area proposed by the subdivider for dedication must consist of an area that is equal or greater in size than the size computed as necessary by the Parks Department, using the formula described in Section 12.04.450(B) herein.

7. The area of proposed dedication shall have a street frontage equal to at least twenty per cent (20%) of its perimeter to allow for regular observation of play areas by residents of the subdivision. Alternative design measures that accomplish the same purpose of security may be approved by the City.

8. The topography, soils, hydrography and other physical characteristics of the area proposed for dedication shall be of such quality as to allow the development of community or neighborhood parks, or to create a flat, dry, obstacle-free space, on at least fifty per cent (50%) of the total required area in a configuration which allows for active recreation; shall have no known safety hazards; and shall have no known physical problems such as the presence of hazardous waste, drainage, erosion, or flooding that the Director determines would cause inordinate demands upon public resources for maintenance and operation of the property to be dedicated to the City.

9. Dedication to a Homeowner’s Association. If it is determined that the public interest would be served, the land may be conveyed to a homeowner’s nonprofit maintenance corporation. In this instance, the subdivider shall, at or prior to the time of filing a final plat for approval, supply the Planning Department with copies of the articles of incorporation and bylaws of the grantee organization, together with evidence of the conveyance or of a binding commitment to convey. The articles
of incorporation shall provide that membership in the corporation shall be conditioned upon ownership of land in the subdivision, that the corporation is empowered to assess the land for costs of construction and maintenance of the improvements and property owned by the corporation, and that the assessment shall be a lien upon the land. The City Attorney shall review and approve the articles of incorporation and bylaws as to compliance with this provision. The Council may impose other conditions as it deems appropriate to assure that property and improvements owned by the corporation will be adequately constructed and maintained.

B. AMOUNT OF LAND TO BE DEDICATED. Subdividers who dedicate open space or park land pursuant to this section shall set dedicate five (5) percent of the total property being subdivided.

C. FEE-IN-LIEU OF OPEN SPACE. Unless a subdivider dedicates land in accordance with this Section in order to mitigate the direct impacts identified as a consequence of the proposed development, the City’s final approval of the subdivision shall be contingent upon payment of a park development fee from the subdivider to the City.

1. COMPUTATION OF FEE. The fee in lieu of land dedication for parks and open space shall be determined by multiplying the following two factors:

   a.) One hundred and fifty (150) percent of the average assessed value per unit area of land within the boundaries of the subdivision; and
b.) The gross land area within the subdivision multiplied by five (5) per cent as set forth in Section 12.04.450(B) above. The average assessed value shall be that for the year in which the subdivision is granted preliminary plat approval. Computations shall be based upon King County Assessor information.

2. USE OF FEE BY CITY. The fee-in-lieu of dedication shall be held in a reserve account at the City, and may only be expended to fund a capital improvement that has been agreed upon by the parties to mitigate the identified, direct impact of the development.

3. TIME LIMITS ON EXPENDITURE. The payment shall be expended in all cases within five (5) years of collection.

D. TIME OF PERFORMANCE. When approval of a subdivision is conditioned upon the dedication of land or the payment of any fees-in-lieu of dedication, a final plat or short plat shall not be recorded until:

1. The Parks Director has determined in writing that any land to be dedicated is shown on the face of the final plat or short plat, or a deed conveying the land to the City has been recorded with the King County Department of Records and Elections.

2. Conveyance of land to a homeowner’s association shall be done within the time frames specified in Section 12.04.450(A)(9).
3. The instrument conveying the land to the City has been transmitted to the City Council for acceptance of the dedication by ordinance.

4. Payment of any fees in-lieu-of-dedication have been made to the City Finance Department.

E. REFUND OF FEE. Any payment of fees made pursuant to this Section that have not been expended within five (5) years of collection shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the refund. PROVIDED, HOWEVER, that if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

F. APPEALS. Appeals of dedication requirements or fees-in-lieu-of-dedication imposed pursuant to this Section 12.04.450 shall be governed by the provisions of Chapter 2.54 of the Kent City Code.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subsection or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.
Section 4. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage, approval and publication as provided by law.

ATTEST:

Brenda Jacober
BRENDA JACOBER, ACTING CITY CLERK

APPROVED AS TO FORM:

Roger A. Lubovich, CITY ATTORNEY

PASSED the 19 day of March, 1991.
APPROVED the 20 day of March, 1991.
PUBLISHED the 22 day of March, 1991.

I hereby certify that this is a true copy of Ordinance No. 2975, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

Brenda Jacober (SEAL)
BRENDA JACOBER, ACTING CITY CLERK