

CITY COUNCIL ORDINANCE NO. 10-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE AMENDING CHAPTER 10, DEDICATIONS, OF DIVISION 5, SUBDIVISIONS, OF THE CITY'S MUNICIPAL CODE, TO ADD A NEW SECTION TO INCORPORATE NEW URBAN PARK STANDARDS INTO THE CITY'S PARK DEDICATION REQUIREMENTS FOR THE IBC AND AMEND SECTION 5-5-1000D(1) TO REMOVE A 50 UNIT PER ACRE DENSITY CAP FOR DETERMINING PERSONS PER HOUSEHOLD

WHEREAS, the City of Irvine, as part of the Irvine Business Complex (IBC) Vision Plan project, is proposing to amend the Municipal Code to update park standards for the IBC; and

WHEREAS, the City of Irvine has an adopted Municipal Code; and

WHEREAS, the proposed Municipal Code Amendment is considered a part of the overall Vision Plan project for the IBC (Vision Plan Project) pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the City Council has considered information presented by the applicant, the Community Development Department, and other interested parties at public meetings and hearings held on July 11, 2006, July 25, 2006, February 27, 2007, October 23, 2007, February 26, 2008, April 27, 2010, and July 13, 2010.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN as follows:

SECTION 1. That pursuant to Section 15205 of the State CEQA Guidelines, the City Council reviewed and considered the Final Environmental Impact Report (SCH# 2007011024) (FEIR) in making its recommendation on the Zone Change and the Vision Plan Project.

SECTION 2. Most of the potentially significant environmental impacts of the Vision Plan Project identified in the FEIR have been determined to be less than significant or mitigated to a level that is considered less than significant or changes have been required or incorporated into the Vision Plan Project which avoid or substantially lessen the significant environmental effects.

SECTION 3. Certain impacts of the Vision Plan Project to Air Quality, Noise, Land Use and Traffic have been identified in the FEIR as significant and unavoidable. The specific impacts are summarized in Exhibit A to Resolution No 10-79. Based upon specific economic, social, technical or other considerations, the City Council finds these effects acceptable and adopts the required facts and findings and Statement of Overriding Considerations (attached as Exhibit B to Resolution No. 10-79).

SECTION 4. Although the FEIR identifies certain significant environmental effects that would result if the Vision Plan Project is approved, most environmental effects can feasibly be avoided or mitigated. The applicable mitigation measures, included within the FEIR as Table 1-2 and incorporated herein as Exhibit C to Resolution No. 10-79, have been incorporated into the Vision Plan Project or identified as requirements of the Vision Plan Project.

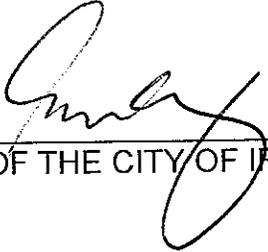
SECTION 5. In accordance with Section 8 of the City of Irvine CEQA Procedures, the Planning Commission recommends that the City Council find that the FEIR has been completed in compliance with CEQA and the State CEQA Guidelines, and the City's CEQA Procedures. The Planning Commission also recommends that the City Council, having final approval authority over the project, certify as complete and adequate the Final EIR.

SECTION 6. Pursuant to Fish and Game Code Section 7.11.4 (C), all required Fish and Game filing fees will be paid subsequent to certification of the FEIR for the Vision Plan Project.

SECTION 7. Chapter 10, Dedications, of Division 5, Subdivisions, of the Irvine Municipal Code is hereby amended as outlined in Exhibit A.

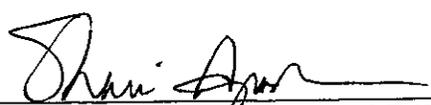
SECTION 8. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

PASSED AND ADOPTED by the City Council of the City of Irvine at an adjourned regular meeting held on the 27th day of July, 2010.



MAYOR OF THE CITY OF IRVINE

ATTEST:

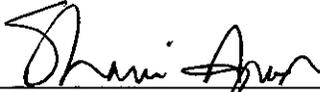


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on July 13th, 2010, and duly adopted at an adjourned regular meeting of the City Council of the City of Irvine held on the 27th day of July, 2010, by the following vote:

AYES: 5 COUNCILMEMBERS: Agran, Choi, Krom, Shea and Kang
NOES: 0 COUNCILMEMBERS: None
ABSENT: 0 COUNCILMEMBERS: None



CITY CLERK OF THE CITY OF IRVINE

Sec. 5-5-1004. Park dedication.

A. Requirements:

1. As a condition of approval of a tentative map, the subdivider shall dedicate land, and/or improvements/amenities, and/or pay a fee for the purpose of developing new or rehabilitating existing park or recreational facilities to serve the subdivision. This requirement shall apply to all subdivisions except those exempted by section 66477 of the Government Code (sometimes referred to hereinafter as the 'Quimby Act') or any successor statute.
2. Except as provided in subsection A.3 below, if the proposed subdivision contains 50 parcels or less, the subdivider shall not be required to dedicate any land for park and recreational purposes without his or her consent, but shall pay a fee in accordance with subsection D.2 below.
3. When a condominium project, stock cooperative, or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.

B. Terms defined: The following definitions shall govern the meaning of words in this section unless from the context in which the word is used, a different meaning is clearly intended.

1. Fair market value: The estimated per acre value of entitled land with basic infrastructure abutting the property in the proposed project as determined by the Planning Commission based upon an appraisal by a qualified appraiser. Basic infrastructure to the site shall include rough grading, installation of streets, curbs and gutters, and installation of trunk line utilities. Off-site basic infrastructure improvements costs are not eligible for park credit since they are considered in the land appraisal. Items potentially eligible to receive park dedication credits (i.e., minimum improvements, recreational amenities, and associated improvement costs) are not included as part of the appraisal process. Only development projects seeking credits for park dedication in-lieu fees, improvements, and/or amenities shall undergo an independent fair market value land appraisal process specified in the City of Irvine park/facility standards manual. In the event the applicant disagrees with the fair market value determination, the applicant shall use the appeal process specified in the park/facility standards manual. All appraisal costs shall be paid by the applicant prior to the recordation of any final map or issuance of any grading or building permit.
2. Improvements:
 - a. Minimum improvements: Improvements as are deemed necessary by the City to develop land for park and recreation facilities. Such improvements may include but are not limited to site grading, automatic irrigation systems, adequate drainage, lawn, shrubs, trees, concrete walkways and walkway lighting.

- b. Recreational amenities: Park improvements which provide a recreational opportunity for the user, such as ball fields, trails, play/tot lots, and community buildings as described by the schedule of improvements in the Park/Public Facility Standards. To receive park dedication credit, the amenities must be developed to City design standards outlined in the park/facility standards manual.
 - c. Improvement costs: Costs that are associated with the development and construction of minimum improvements and/or recreational amenities. These costs must be directly attributable to the park project to be eligible for park credit as described in the schedule of improvement values in the Park/Public Facility Standards.
3. Park: A parcel or contiguous parcels of land which is/are owned, operated, and maintained by a public agency or private association and which provides recreational land and facilities for the benefit and enjoyment of the residents and visitors of the City. The City designates parks in the following classifications:
- a. Community parks: Parks that serve a minimum population of 10,000 and more than one planning area. Community parks are preferred to be a minimum of 20 acres in size, excluding encumbrances that limit design opportunities, such as eucalyptus windrows, creek beds and/or washes, detention basins, easements, greenbelts, and school grounds. Typical facilities include community centers, athletic facilities, large multi-use swimming pools, picnic areas, day care centers, and cultural centers. Community parks are owned and maintained by the City. Siting of community parks shall be in accordance with criteria established in the community park site identification and evaluation section of the community parks master plan.
 - b. Public neighborhood parks: Parks that serve a minimum population of 2,500. These parks are to be a minimum of four acres in size, excluding encumbrances that limit design opportunities, such as eucalyptus windrows, creek beds and/or washes, detention basins, easements, greenbelts, and school grounds. Typical facilities include active and passive open space, playground equipment, sports fields and picnic areas. Public neighborhood parks are owned and maintained by the City. No public park shall be located within a residential gated community. Public neighborhood park sites shall be publicly accessible by two existing or proposed public streets and visible to the general public. If possible, public neighborhood park sites should be adjacent to a school and/or public trail.
 - c. Private neighborhood parks: Those parks that serve the immediate subdivision/development or specific planned community in which they are located and meet requirements specified in subsection F.2.a of this section, except where noted in Section F.2.a. Typical facilities include passive and active play areas, swimming pools, spas, tennis courts and clubhouses. Private neighborhood parks are owned and maintained by a homeowner's association. Private

neighborhood parks larger than one acre in size located within a gated community must remain accessible to pedestrians and bicyclists of the general public. Except to the extent otherwise required by law, including but not limited to the Quimby Act, no access requirement prescribed herein shall have the effect of superseding a homeowner association's right to restrict the use of private neighborhood parks under its ownership. Private neighborhood parks one acre or less in size located within a gated community are not required to provide pedestrian, bicyclist or vehicle access.

- C. Park dedication standards: All standards for park dedication shall comply with the Quimby Act (State of California Government Code section 66477), the California Subdivision Map Act and the City of Irvine general plan - parks and recreation element.

The developer of residential subdivisions shall dedicate park land and/or fees in lieu, at the rate of five acres per 1,000 population, apportioned as follows:

Two acres -- Community parks

Three acres -- Neighborhood parks

Where:

The public/private distribution of neighborhood park land shall be left to the discretion of the Planning Commission upon the recommendation of the Community Services Commission during the approval of the park plan.

- D. Manner of compliance: The requirements of subsections A and C may be complied with by the provision of park land, park improvements/recreational amenities, the payment of a park fee, or combination of park land, fees, and/or improvements/amenities in accordance with the provisions of this section.

1. When the requirements of subsections A and C are complied with solely on the basis of providing park land, the minimum amount of land to be provided shall be based on the dedication standard and the density classifications and persons per dwelling unit included in the following table:

TABLE INSET:

Dwelling Units per Net acre	Average Number of Persons per Dwelling Unit	Acres per Dwelling Unit
0 to 1.0	3.25*	0.0163*
1.1 to 6.5	2.94	0.0146
6.6 to 12.5	2.57	0.0128
12.6 to 31.0	2.29	0.0115
31.1 and above	1.30	0.0065

- * There were no developed units in the Estate category at the time of the 2000 Census. Therefore, the data was left unchanged.

Notwithstanding any calculation made pursuant to the figures provided in this table, the amount of land required for dedication shall not exceed the statutory maximum of five acres per 1,000 persons.

2. Whenever the requirements of subsections A and C are complied with solely on the basis of the payment of park fees, the amount of such fees shall be computed by multiplying the number of proposed dwelling units by the acres per dwelling unit shown in the table in subsection D.1 and by multiplying the resultant acreage amount by the fair market value of land being developed.
3. Whenever the requirements of subsections A and C are complied with by both the provision of park land and payment of a park fee, the amount of the park fee shall be computed by determining the required amount of park land in accordance with the provisions of subsection D.1 and subtracting the amount of park land actually provided. The remainder shall be converted to a fee in accordance with the provisions of subsection D.2.

E. Disposition of land or fees:

1. The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.
2. All park fees shall be paid directly to the City Cashier prior to the issuance of any residential building permits for the building site or sites from which fees are to be derived. These fees are to be used only for the purpose of developing new or rehabilitating existing park or recreational facilities to serve the subdivision.
3. The Director of Community Services shall include in the strategic business plan and the annual budget how, when, and where the land or fees, or both, which were dedicated to the city to develop park and recreational facilities will be used to serve the residents of the subdivision. Any fees collected under subsections D.2. and 3. of this chapter shall be committed within five years after the payment of such fees or the issuance of building permits on one half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.
4. A park phasing plan is required as part of the park plan when more than one park is proposed in a subdivision. The park phasing plan shall specify when each park shall be developed to best serve the residents of the subdivision. This schedule will be required as a condition of subdivision map approval.

- F. Credits: All parks must comply with the most current, applicable national and state codes, regulations, and standards. All public park improvements/recreational amenities (park dedication credit or no park dedication credit) and private park improvements/recreational amenities receiving park dedication credits must comply with the most current, applicable City codes and standards in the Park/Public Facility Standards.

The subdivider may be eligible to receive credit for park and recreational improvements and apply that credit toward park dedication requirements under the following provisions:

1. Public parks: The value of all eligible minimum improvements, recreational amenities, and improvement costs for the development of public parks shall be a credit against the payment of fees or dedication of land established by this section and the park standards manual. Public park credit shall be granted only when pedestrian, bicyclist, and vehicle access are maintained in perpetuity.
2. Private neighborhood parks: Private land and associated recreational amenities/improvement costs for park and recreational purposes in a proposed development may be eligible to be credited against the requirement for dedication of park land, as set forth in subsection D. Such park land and recreational amenities are to be privately owned and perpetually maintained and operated by the future residents or owner of the development. Eligibility of private park land and associated recreational amenities/improvement costs for park dedication credit shall be subject to approval by the Planning Commission upon recommendation of the Community Services Commission in conjunction with the approval of a park plan. In no event shall such amount of credit exceed the value of the amenities. The value of the amenities to be credited will be determined on the same cost basis as prescribed in subsections B.1., 2. and D.1., 3. Evaluation of private neighborhood park land, recreational amenities, and improvement costs for park dedication credit shall be based on the following criteria:
 - a. That the private park land meet the minimum size requirement of one-third acre, except as follows:
 - i. Developments with densities over 31 dwelling units per net acre located in any Planning Area except in Planning Area 36, where the following requirements shall apply:
 - (i) For developments with less than 200 units, the main private park or recreation area shall be a minimum 6,000 square feet in size; For developments over 200 units, the main private park or recreation area shall be minimum 0.33 acres in size;
 - (ii) The minimum size of the private park or recreation area may include the entire area used for active recreation, including areas that are not eligible for park land credit for example because they are located on a podium, a rooftop or a parking garage, or have units above; However, only the portion of the private park or recreation area that is used exclusively for

- recreation (no other uses above or below) may receive park land credit;
- (iii) Smaller areas within the same development may receive neighborhood park land and/or improvement credit if they contain active recreational amenities (such as pools, recreation buildings, tot lots, sports courts, etc.) and are connected with pedestrian walkways to the main recreation area or park that is at least 6,000 square feet in size.
- ii. Developments located in Planning Area 36, where requirements contained in IBC Residential Mixed Use Design Criteria shall apply;
- b. That the proposed private park land is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location of the private park land;
- c. That the private neighborhood park shall meet the pedestrian, bicyclist and vehicular access requirements as prescribed in subsection B.
- d. That the following areas or subdivision design features are ineligible for private park credit: Leasing offices, yards, court areas (except in Planning Area 36), setbacks, village edges, landscaped village entries, greenbelts (paseos), meandering streams, eucalyptus windrows and circulation improvements such as bicycle, hiking and equestrian trails;
- e. That the location of the land provides convenient access to housing and schools;
- f. That the perpetual private ownership and maintenance of the land is adequately provided for by a recorded written agreement;
- g. That the use of the private park land is perpetually restricted for park and recreational purposes which cannot be defeated or eliminated without the consent of the City Council and in no event without providing equivalent park and recreational space elsewhere in the development;
- h. That the proposed amenities be suitable to meet the recreation needs of the residents the park is to serve;
- i. That the amenities accepted for full credit for private parks shall be those amenities typically found in public parks as described in section 5-5-1004B.3; and
- j. That for private parks in excess of one acre, access to the public (excluding vehicular access) shall not be prevented to the extent as described in subsection B.3.
3. Banking park credits: Park dedication credits may be eligible to be banked in the form of acres under the following circumstances:
- a. Community parks: Park dedication credit for a community park may be banked and applied towards other community park sites within nearby planning area(s) as determined during approval of the park plan.
- b. Neighborhood parks: When the timing of park development is not synchronized with residential development within a planning area, neighborhood park dedication credits may be eligible to be banked, as determined during approval of the park plan, if the following conditions are met:
- (i) Banked public neighborhood park credits may only be applied towards any neighborhood park site in the planning area within one-half mile from the units which generated the dedication.

- (ii) Banked private neighborhood park credits may only be applied towards private parks within the subject tract map boundaries.
- (iii) Banked private neighborhood park credits generated by gated residential developments may only be applied towards private parks within the privacy gates of the units which pay for the park's maintenance.

4. Use of Quimby Act fees:

- a. Developers of in-fill housing projects with 50 or less units may comply with park dedication requirements solely by payment of in-lieu fees. Neighborhood park in-lieu fees shall be used at the nearest public neighborhood park. Community park in-lieu fees shall be used at the nearest community park(s).
- b. Developers of residential projects needing to meet park dedication requirements must select one of the following to satisfy their obligation. For the private park requirement, the developer shall either construct park improvements/recreational amenities at new or existing private parks or pay in lieu fees to the City which shall be applied towards public parks and/or amenities. The in-lieu fees shall be applied towards public parks and/or amenities. The in-lieu fees shall not be granted to existing private homeowner associations. The disposition of City in-lieu fees shall be included in the annual strategic business plan and budget processes.

5. Urban plazas and courtyards: Urban plazas and courtyards are ineligible for park dedication credit, except in Planning Area 36. An urban plaza or courtyard is an area such that the subject land and water is not covered with buildings or structures. The area may have been created as part of the urban building or landscaping design process and be between buildings. The area may or may not be landscaped. Such areas provide limited recreational opportunities and primarily serve passive and circulation uses.

G. Dedication standard reductions: In order to encourage the construction of low- and moderate-income housing, the city has adopted the following policy:

- 1. The developer of new units affordable for households of low and moderate income, as defined in the City of Irvine General Plan - Housing Element, may be allowed to reduce the dedication standard to a minimum of three and one-half acres per 1,000 population, upon review of the Community Services Commission and approval by the Planning Commission during the approval of the park plan. The distribution of the three and one-half acres shall be as follows: One and one-half acres - community parks, and two acres - neighborhood parks. The public/private distribution of neighborhood park land shall be determined during the approval of the park plan.
- 2. Dedication standard reduction requests shall be subject to the park plan processing procedures as described in Zoning Ordinance section 2-22-3. Approval of a request for this reduction shall be subject to the applicant's provision of documentation

regarding the following criteria:

- a. That the reduction in park dedication will help lower the cost of construction of the units planned for low-or moderate-income households.
- b. That the new rental units will be guaranteed as rentals for low-income households for a minimum of ten years.
- c. That projects for family units will be located within one-half mile of a publicly maintained park and/or school playground.

H. Appeals:

1. Any person may appeal a determination of the Planning Commission regarding the interpretation of this division. Appeals shall be filed with the City Clerk and shall be accompanied by a letter stating the reasons for the appeal. Any such appeals shall be filed within 15 calendar days from the date of determination.
2. An appeal shall be accompanied by a fee/deposit as required by City Council resolution. An appeal by a member of the City Council shall not be subject to the payment of a deposit/fee.
3. The City Clerk shall schedule the appeal for a hearing within 60 days of receipt of the appeal. Notice of the time and place the City Council will consider the appeal shall be mailed by the City Clerk to the applicant and to the person who filed the appeal (if other than the applicant).
4. The City Council shall hold at least one public hearing on any appeal in accordance with Zoning Ordinance chapter 2-5.
5. The City Council may affirm, reverse or modify the previous decision. The decision of the City Council shall be final.