

ORDINANCE NO. 278

AN ORDINANCE AMENDING ORDINANCE 168, THE ARLINGTON SUBDIVISION ORDINANCE, BY REPEALING SECTION 10, SUBDIVISION 7 RELATING TO PUBLIC LAND DEDICATION

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS ORDINANCE 168, THE SUBDIVISION ORDINANCE, SHALL BE AMENDED BY REPEALING SECTION 10, SUBDIVISION 7 AND REPLACING IT AS FOLLOWS:

SUBDIVISION 7. PUBLIC LAND DEDICATION.

A. Findings.

1. The City Council finds that the preservation and development of parks, playgrounds, and open space areas within the City are essential to maintaining a healthy and desirable environment for residents and persons employed within the City, and it also finds that the value and attractiveness of residential, commercial and industrial developments to land owners, developers, purchasers, employers and employees is significantly enhanced by the presence of such park and open space amenities.
2. Minnesota Statutes Section 462.358 Subd. 2b, as may be amended provides that municipal subdivision regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes for public use as parks, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept and equivalent amount in cash.
3. The City Council finds that it is appropriate that each development within the City contribute toward the City's park system in proportion to the benefit provided and the burden it will place upon that system. Therefore, these park donation regulations are established to require new developments or resubdivisions that create additional lots at the time of subdivision contribute toward the City's park system in rough proportion to the relative burden they will place upon that system.
4. **The City Council finds it is appropriate to further the goals of the City's Comprehensive Plan and provide a means to assist developers and landowners in protecting and preserving open space, preserving/providing/connecting wildlife corridors, scenic vistas, historic sites, water resources and environmentally sensitive lands, and the county's rural character through the reasonable establishment of buffers adjacent to wetlands, the Boerner Wildlife Management Area, and High Island Creek.**

B. Dedication of Land.

1. Pursuant to Minnesota Statutes, the City shall require all Applicants requesting platting, or replatting which results in the creation of additional lots, of all lands in the City of Arlington, to dedicate ten percent (10%) **of the buildable area** of all

residential property being platted, subdivided or replatted for parks, playgrounds, public open space or to contribute an amount of cash, based on the fee schedule as set by the City Council, **no later than at the time of final approval.**

2. Furthermore, the City shall require all Applicants requesting platting, or replatting which results in the creation of additional lots, of all lands in the City of Arlington, to dedicate five percent (5%) percent **of the buildable area** of all commercial or industrial property being platted, subdivided or replatted for parks, playgrounds, public open space or to contribute an amount of cash, based on the fee schedule as set by the City Council, **no later than at the time of final approval.**
3. **The City shall give due consideration to the public open space, trails, pathways, and recreational areas/facilities the Applicant proposed for the subdivision. The City need not, but at its discretion may, consider sidewalks or protection/preservation of natural features required as part of the subdivision approval process under this standard relating to public land dedication.**
4. **The land to be dedicated for this purpose shall be in addition to the property dedicated for streets, alleys, waterways, storm water management, pedestrian ways or other public ways.**
5. **The City Council of the City of Arlington shall have the right to determine the geographic location and configuration of said land dedication. No area may be dedicated as parks, playgrounds or public lands until such areas have been approved by the City Council for the purpose to which they are to be dedicated. The Applicant shall leave such dedicated land in a condition suitable to the City Council.**
6. **The City shall not require parkland dedication for re-subdivision, unless new lots are created, and then, said parkland dedication requirements shall only be applied to the new lots created.**

C. Payment in Lieu of Land.

1. All monies collected from cash contributions shall be placed in a special fund from which only those public uses listed in Section A (Findings) above may be constructed or improved or land for those same uses may be acquired.
2. The City shall have the option of requiring a cash payment in lieu of the land dedication as set forth in Section (B) of this Ordinance. **The in lieu amount shall be based on the fair market value of unplatted land as determined by the City Assessor and approved year to year by the City Council.** The cash payment shall be calculated by applying the percentages contained in Section (B) above, as may be amended, to the fair market value of unplatted land.
3. **The City shall not collect a cash payment for re-subdivision, unless new lots are created, and then, said cash payment shall only be applied to the new lots created.**

D. Delayed Dedication Payment. Upon petition by the Applicant, the Council may approve a delay in the actual dedication of the cash required in lieu of the land until such time as

the development occurs on the property being platted, provided that a proper legal agreement is executed guaranteeing such dedication. Delayed dedication payment shall include interest at a rate of **prime plus two (2) percent per year.**

SUBDIVISION 7.25 ENVIRONMENTAL PRESERVATION/PROTECTION MEASURES.

A. Findings.

1. **Streambank and shoreline stabilization that remediate erosion are important tools to restore and protect water quality.**
2. **A stable stream/bank has the ability to maintain pattern and shape while transporting sediment without either aggrading or scouring the channel bed. Eroding and failing streambanks are often the symptom of an unstable stream, and may be caused by excessive current stress on the streambanks. Frequently, the source or cause of the excessive current stress is increased volume and rate of flow due to runoff from impervious surfaces such as roads, parking lots, etc.**
3. **Wetlands are part of an essential natural system of land and water which help to (a) control flooding and reduce damage from storm surges; (b) trap sediments and pollutants; (c) recharge groundwater; and (d) provide habitat for birds, amphibians, and other wildlife.**
4. **Adopting these standards is necessary for the preservation of the public health, safety, and welfare and mitigation of adverse impacts.**

B. Preservation/Protection of Natural Features Required.

1. **Existing natural features which maintain native, historic, and/or culturally significant landscapes in the City such as tree massings, slopes greater than eighteen percent (18 %) over a horizontal distance of fifty (50) feet, areas abutting High Island Creek, streambanks, delineated wetlands, assets identified on the County Biological Survey and similar assets shall be preserved insofar as possible through harmonious design of the subdivision, installation of required buffers, dedication of conservation easements, and use of similar tools designed to protect and preserve natural areas and vital community assets as identified in the Arlington Comprehensive Plan as may be amended.**
2. **The City Council reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of natural features such as large trees, watercourses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness and stability to the proposed development of the property.**
3. **The City need not, but at its discretion may, consider preservation/protection of natural features as part of the subdivision approval process under Section**

10, Subdivision 7 (Public Land Dedication) of the Subdivision Ordinance, as may be amended.

C. Wetland Systems and Watercourses. Where the subdivision of a lot or tract of land contains drainage ways, watercourses, floodable areas, streambanks, riparian areas, or wetlands and thus may be unsuitable for development, such areas shall be handled as follows:

- 1. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.**
- 2. If said land is designated, in whole or part, as park, open space or other public use on an adopted plan of the City, the Applicant shall dedicate said land to the City in a manner defined by the City but typically through easement, dedication, or platted outlot.**
- 3. An approved wetland replacement application or a certificate of exemption must be obtained in strict conformance with the provisions of the Minnesota Wetland Conservation Act prior to approval of a grading permit to allow wetland disturbing activities.**

D. Buffers Required.

- 1. An non-mown and naturally vegetated protective buffer comprised of natural vegetation as approved or recommended by the Sibley County National Resource Conservation Service (NRCS) Office shall be established and maintained around all wetlands and the High Island Creek watercourse within areas developed or redeveloped, in accordance with the following provisions:**
- 2. Minimum Width: The buffer shall have a defined minimum width from the delineated edge of the wetland as specified and agreed to by the City Council at the time of development.**
- 3. The required buffer shall be platted as an outlot or placed in an easement, or put in a conservation easement if established as part of a subdivision application.**
- 4. A building setback of ten feet (10') for a side yard and twenty feet (20') for a rear yard shall be provided from all required buffers at the time of development.**

SUBDIVISION 7.50 REQUIRED LANDSCAPING.

- A. The Applicant shall plant shade trees on the property of the subdivision. Such trees are to be planted within five (5) feet of the right of way of the streets within and abutting the subdivision , or, at the discretion of the City Council within the right of way of such streets. One (1) tree from the below list shall be planted for every forty (40) feet of**

frontage along each street. unless the City Council, upon recommendation of the City Engineer, shall grant a waiver. Such waiver shall be granted only if there are existing trees which, in the opinion of the City Council comply with these regulations. A petition may be granted to plant trees other than those listed below, provided the subdivider has obtained approval of City Council for the substitution prior to planting. No street shall be accepted for dedication until the City Engineer shall inform the City Council that compliance has been made with these regulations.

List of Acceptable Shade Trees

Common Name Latin Name

Birch, River *Betula nigra*
Ginkgo (male only) *Ginkgo biloba*
Hackberry *Celtis occidentalis*
Hawthorne, Thornless *Crataegus spp.*
Honeylocus, Thornless *Gleditsia triacanthos*
Ironwood (Basswood) *Ostrya virginiana*
Linden, American *Tilia americana*
Maple, Sugar or hard *Acer saccharum*
Maple, Red *Acer rubrum*
Oak, Bicolor *Quercus bicolor*
Oak, Bur *Quercus macrocarpa*
Oak, Red *Quercus rubra*
Oak, White *Quercus alba*
Others, if recommended by the City Forester

- B. Planting strips shall be placed along highways and railroad lines to screen the view and to reduce noise levels in residential areas.

SUBDIVISION 7.75 PEDESTRIAN CORRIDORS.

- A. Applicant's shall define and construct a meaningful pedestrian circulation system subject to City approval which connects to the major sidewalk/trail/pathway system, as existing and proposed, to schools, parks, and shopping areas and shall provide easements to accommodate such movement. Said pedestrian ways shall be coordinated with the City of Arlington Trail Map, routes within adjacent subdivisions, routes envisioned within the Comprehensive Plan, or as otherwise directed by the Park Board, Planning Commission, and City Council.
- B. Developers of land abutting property that has been designated in the City's Comprehensive Plan for the installation of a trail shall be required to dedicate the land for the trail to the city and construct the trail. In lieu of a trail donation, trail construction, or trail easement dedication, the City may require a cash donation for the trail system.
- C. Generally, the Applicant will demonstrate how pedestrians will traverse the proposed development from one end to the other, either through the use of a neighborhood trail system, sidewalks, or combination of pedestrian improvements. Specifically, the Park Board, Planning Commission, and City

Council shall consider the following land use and transportation context factors when determining whether or not sidewalks shall be required:

- 1. Whether the corridor provides a primary access to a significant destination such as a park or recreational area, a school, or shopping/commercial areas.**
- 2. Whether the corridor provides access across a natural or human-made barrier such as High Island Creek or Highway 5.**
- 3. Whether the corridor is an area where a relatively high number of users of non-motorized transportation modes can be anticipated.**
- 4. Whether a corridor provides important continuity or connectivity linkages for existing sidewalk, trail or pathway networks.**
- 5. Whether nearby routes providing a similar level of service, convenience, and/or continuity currently exist.**

II. EFFECTIVE DATE.

This Ordinance is effective upon its adoption and publication as prescribed by law.

For City of Arlington:

By James R. Kreft
It's Mayor

By Matthew Jaunich
It's Administrator

First Reading: November 5, 2012
Second Reading: November 19, 2012
Adopted: November 19, 2012
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