

**CITY OF EL PASO, TEXAS  
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Planning & Inspections Department

**AGENDA DATE:** Introduction: April 21, 2015  
Regular Agenda: April 28, 2015

**CONTACT PERSON NAME AND PHONE NUMBER:** Kimberly Forsyth, (915) 212-1563,  
forsythkl@elpasotexas.gov

**DISTRICT(S) AFFECTED:** City-wide

**SUBJECT:**

Amendment to Title 19 to allow a refund of certain park fees: An Ordinance amending Title 19 (Subdivision and Development Plats), Chapter 19.20 (Parks and Open Space), Section 19.20.110 (Fee in Lieu of Parkland Dedication), and Section 19.20.120 (Parkland Fees Special Fund) of the City Code of El Paso to permit a refund of fees in lieu of parkland dedication when the development in accordance with the plat is abandoned and the property is conveyed to the City for use as public open space.

**BACKGROUND / DISCUSSION:**

The Subdivision Code requires parkland dedication or fees in lieu of dedication to be paid prior to recording of any new subdivision.

The code does not currently provide for the any refund of fees paid if the development is subsequently abandoned and the property is conveyed to the City for use as open space. The amendment will allow a refund of fees that were paid in this circumstance, to promote the preservation of open space and conveyance of property to the City for open space purposes. The amendment was reviewed by the DCC and is recommended for approval.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

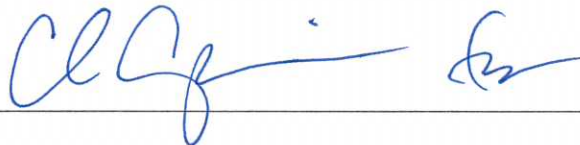
April 9, 2015 - City Plan Commission unanimous approval recommendation  
April 13, 2015 - Parks Board recommendation pending

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:**



Mathew S. McElroy  
Planning & Inspections Director

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 19 (SUBDIVISION AND DEVELOPMENT PLATS), CHAPTER 19.20 (PARKS AND OPEN SPACE), SECTION 19.20.110 (FEE IN LIEU OF PARKLAND DEDICATION) AND SECTION 19.20.120 (PARKLAND FEES SPECIAL FUND) OF THE CITY CODE OF EL PASO TO PERMIT A REFUND OF FEES IN LIEU OF PARKLAND DEDICATION WHEN THE DEVELOPMENT IN ACCORDANCE WITH THE PLAT IS ABANDONED AND THE PROPERTY IS CONVEYED TO THE CITY FOR USE AS PUBLIC OPEN SPACE**

**WHEREAS**, Title 19 (Subdivision and Development Plats) of the El Paso City Code (the “Code”) was adopted to promote the health, safety, morals and general welfare of the community; and,

**WHEREAS**, the City has required that subdivision developments provide recreational areas necessary to the public welfare and has adopted policies and procedures for subdivision plat approval into Title 19 that integrates requirements for recreation areas in each proposed subdivision, including, but not limited to, dedication of neighborhood parks, community parks that serve several neighborhoods, linear parks, trails and open space areas or payment of fees in lieu of dedication;

**WHEREAS**, the proposed revision that allows the City to refund fees paid in lieu of parkland dedication when the subdivision development is abandoned and the property is conveyed to the City only for the purpose of use as open space is consistent with the City’s policies regarding recreational resources available to the community; and

**WHEREAS**, the City Plan Commission has recommended approval of the amendments, and the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, morals and general welfare of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**SECTION 1:** That Title 19 (Subdivision and Development Plats), Chapter 19.20 (Parks and Open Space), Section 19.20.110 (Fee in lieu of parkland dedication) of the City Code shall be revised as follows:

D. Refunds. Under no circumstance shall fees received in lieu of parkland dedication required by this chapter be refunded to a subdivider, except as provided in Section 19.20.120(D).

**SECTION 2:** That Title 19 (Subdivision and Development Plats), Chapter 19.20 (Parks and Open Space), Section 19.20.120 (Parkland Fees Special Fund) of the City Code shall be amended to add Subsection (D) as follows:

**ORDINANCE NO.** \_\_\_\_\_

D. Refund. If a developer has proof of payment of fees in lieu of park dedication for an approved subdivision, but the developer subsequently abandons development of the property as shown on the approved subdivision and conveys the property to the City for the sole purpose of use as public open space, the developer is entitled to a full refund at the time of the conveyance.

**SECTION 3:** Except as herein enumerated, Title 19 (Subdivision and Development Plats), Chapter 19.20 (Parks and Open Space), Section 19.20.110 (Fee in lieu of parkland dedication) and Section 19.20.120 (Parkland Fees Special Fund) of the City Code shall remain in full force and effect.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015

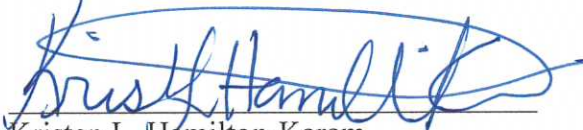
**CITY OF EL PASO**

**ATTEST:**


\_\_\_\_\_  
Oscar Leeser, Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
Municipal Clerk


**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kristen L. Hamilton-Karam  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Mathew S. McElroy, Director  
Planning & Inspections Department

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Tracy A. Novak, Director  
Parks & Recreation Department

**ORDINANCE NO.** \_\_\_\_\_



## Planning & Inspections Department

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**Mayor**  
Oscar Leeser

**TO:** The Honorable Mayor and City Council  
Tommy Gonzalez, City Manager

**City Council**

*District 1*  
Ann Morgan Lilly

**FROM:** Kimberly Forsyth, AICP, CNU-A, *KLF*  
Lead Planner

*District 2*  
Larry Romero

**DATE:** April 9, 2015

*District 3*  
Emma Acosta

**SUBJECT:** Title 19 amendment - to permit a refund of park fees if the property is later conveyed to the City for use as public open space.

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*District 4*  
Carl L. Robinson

Title 19, the subdivision code, requires parkland dedication or fees in lieu of dedication to be paid prior to recording of any new subdivision. The code does not currently allow for any refund of fees paid if the development is subsequently abandoned and the property is conveyed to the City for use as open space. The amendment will allow a refund of fees that were paid in this circumstance, to promote the preservation of public open space.

*District 5*  
Dr. Michiel R. Noe

The amendment was reviewed by the DCC and recommended for approval. The City Plan Commission unanimously recommended approval of the proposed amendment on April 9, 2015. There was no public comment.

*District 6*  
Claudia Ordaz

*District 7*  
Lily Limón

*District 8*  
Cortney C. Niland

**City Manager**  
Tommy Gonzalez



Planning & Inspections Department  
City 3 | 801 Texas Avenue | El Paso, Texas 79901 | (915) 212-0083

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## *City of El Paso – City Plan Commission Staff Report*

### **Amendments to Title 19**

The Subdivision Code requires parkland dedication or fees in lieu of dedication to be paid prior to recording of any new subdivision.

The code does not currently provide for any refund of fees paid if the development is subsequently abandoned and the property is conveyed to the City for use as public open space. The amendment will allow a refund of fees paid in this circumstance, to promote the preservation of open space and conveyance of property to the City for open space purposes.

This amendment was reviewed by the DCC and is recommended for approval.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 19 (SUBDIVISION AND DEVELOPMENT PLATS), CHAPTER 19.20 (PARKS AND OPEN SPACE), SECTION 19.20.110 (FEE IN LIEU OF PARKLAND DEDICATION) AND SECTION 19.20.120 (PARKLAND FEES SPECIAL FUND) OF THE CITY CODE OF EL PASO TO PERMIT A REFUND OF FEES IN LIEU OF PARKLAND DEDICATION WHEN THE DEVELOPMENT IN ACCORDANCE WITH THE PLAT IS ABANDONED AND THE PROPERTY IS CONVEYED TO THE CITY FOR USE AS PUBLIC OPEN SPACE

WHEREAS, Title 19 (Subdivision and Development Plats) of the El Paso City Code (the "Code") was adopted to promote the health, safety, morals and general welfare of the community; and,

WHEREAS, the City has required that subdivision developments provide recreational areas necessary to the public welfare and has adopted policies and procedures for subdivision plat approval into Title 19 that integrates requirements for recreation areas in each proposed subdivision, including, but not limited to, dedication of neighborhood parks, community parks that serve several neighborhoods, linear parks, trails and open space areas or payment of fees in lieu of dedication;

WHEREAS, the proposed revision that allows the City to refund fees paid in lieu of parkland dedication when the subdivision development is abandoned and the property is conveyed to the City only for the purpose of use as open space is consistent with the City's policies regarding recreational resources available to the community; and

WHEREAS, the City Plan Commission has recommended approval of the amendments, and the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, morals and general welfare of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

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**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2015

**CITY OF EL PASO**

**ATTEST:**

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Oscar Leeser, Mayor

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Richarda Duffy Momsen  
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Mathew S. McElroy, Director  
Planning & Inspections Department

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Tracy A. Novak, Director  
Parks & Recreation Department

**ORDINANCE NO.** \_\_\_\_\_



## **Title 19 – Parkland Fee Refund for Conveyance as Public Open Space**

The Subdivision Code requires parkland dedication or fees in lieu of dedication to be paid prior to recording of a new subdivision. The code does not currently allow for any refund of fees paid if the development is subsequently abandoned and the property is conveyed to the City for use as public open space. New language is proposed:

**D. Refund. If a developer has proof of payment of fees in lieu of parkland dedication for an approved subdivision, but the developer subsequently abandons development of the property as shown on the approved subdivision and conveys the property to the City for the sole purpose of use as public open space, the developer is entitled to a full refund at the time of conveyance.**

The DCC has reviewed the amendment and recommends approval.



## **Title 19 – Parkland Fee Refund for Conveyance as Public Open Space**

### **19.50.030 - Definitions.**

Open space, public. "Public open space" as defined in the zoning ordinance, means the land dedicated to and accepted by the City of El Paso that is specifically designated as open area to remain undisturbed in its natural state.

**Questions?**