

AN ACT

relating to parkland dedication for multifamily, hotel, and motel property development by certain municipalities; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 212, Local Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. MULTIFAMILY, HOTEL, AND MOTEL PARKLAND DEDICATION:

MUNICIPALITIES WITH POPULATION OF MORE THAN 800,000

Sec. 212.201. DEFINITIONS. In this subchapter:

(1) "Affordable dwelling unit" means a residential unit offered at a below market rate for rent or sale under a municipal, county, state, or federal program.

(2) "Consumer price index" means the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published by the Bureau of Labor Statistics of the United States Department of Labor or its successor in function.

(3) "Improvement" and "market value" have the meanings assigned by Section 1.04, Tax Code.

(4) "Land value" means the market value of land per acre, not including an improvement to the land.

(5) "Median family income" means the United States Census Bureau's most recent American Community Survey's five-year estimate of median family income for all families within the applicable municipality.

1           (6) "Multifamily unit" means a residential unit other  
2 than a detached single-family or two-family dwelling.

3           (7) "Parkland" means an area that is designated as a  
4 park for the purpose of recreational activity. The term includes an  
5 open space, a recreational facility, and a trail.

6           (8) "Parkland dedication" means the fee simple  
7 transfer of land or the dedication of an easement to a municipality  
8 for nonexclusive use as parkland.

9           (9) "Parkland dedication fee" means a fee imposed by a  
10 municipality on a landowner for the acquisition, development,  
11 repair, and maintenance of parkland.

12           (10) "Plan" means a subdivision development plan,  
13 subdivision plan, site plan, land development plan, and site  
14 development plan each proposing the development of multifamily,  
15 hotel, or motel units.

16           Sec. 212.202. APPLICABILITY. This subchapter applies only  
17 to a municipality with a population of more than 800,000.

18           Sec. 212.203. CONSTRUCTION. This subchapter may not be  
19 construed to prohibit a municipality from requiring by ordinance a  
20 landowner to dedicate a portion of the landowner's property for  
21 parkland use, impose a parkland dedication fee, or both require the  
22 dedication and impose the fee for the development of single-family  
23 or two-family uses.

24           Sec. 212.204. EXCLUSIVE AUTHORITY; LIMITATION. (a)  
25 Notwithstanding any other law, a municipality has exclusive  
26 authority within its boundaries to require the dedication of  
27 parkland, impose a parkland dedication fee, or both require the

1 dedication and impose the fee. A municipality may not delegate that  
2 authority to another political subdivision.

3 (b) A municipality may only exercise its authority under  
4 this section through a plan application in accordance with this  
5 subchapter.

6 Sec. 212.205. PARKLAND DEDICATION, FEE, OR COMBINATION.

7 (a) A municipality may require a landowner to dedicate a portion of  
8 the landowner's property for parkland use, impose a parkland  
9 dedication fee, or both require the dedication and impose the fee  
10 under a plan application filed under this subchapter by:

11 (1) paying a fee set in accordance with Section  
12 212.210(b) or 212.211(b), as applicable; or

13 (2) dedicating a portion up to the maximum size  
14 authorized under Section 212.208 and paying a reduced fee set in  
15 accordance with Section 212.210(d) or 212.211(c), as applicable.

16 (b) A municipality may allow a landowner to elect a parkland  
17 dedication, a parkland dedication fee, or a dedication and fee  
18 under Subsection (a).

19 Sec. 212.206. REQUEST FOR PARKLAND DEDICATION

20 DETERMINATION. (a) A landowner may, at the landowner's sole  
21 discretion, make a written request to a municipality that the  
22 municipality make a timely determination of the dedication amount  
23 the municipality will impose under the municipality's parkland  
24 dedication requirements as applied to the landowner's property  
25 being considered for development.

26 (b) A municipality may make a reasonable written request to  
27 the landowner for additional information that is:

- 1           (1) publicly and readily available; and
- 2           (2) necessary to provide a determination under this
- 3 section.

4           (c) A municipality shall respond in writing to a request  
5 made under Subsection (a) not later than the 30th day after the date  
6 the municipality receives a completed request. If the municipality  
7 fails to respond in accordance with this subsection, the  
8 municipality may not require a parkland dedication as a condition  
9 of approval of a proposed plan or application for property that is  
10 the subject of the request.

11           (d) A parkland dedication determination issued under this  
12 section:

13           (1) is a legally binding determination of the amount  
14 of the landowner's parkland dedication for the property that is the  
15 subject of the determination; and

16           (2) is applicable to the property that is the subject  
17 of the determination for a period that is the lesser of:

18                   (A) two years; or

19                   (B) the time between the date the determination  
20 is issued and the date a plan application is filed that uses or  
21 relies on the determination.

22           (e) A landowner may release in writing a municipality from a  
23 determination made under this section.

24           Sec. 212.207. PARKLAND DEDICATION AUTHORITY. (a) A  
25 municipality may not require a parkland dedication, impose a  
26 parkland dedication fee, or both require the dedication and impose  
27 the fee for any commercial use. For the purpose of this section, a

1 commercial use does not include a multifamily, hotel, or motel use.

2 (b) If a plan application submitted to a municipality  
3 proposes development of the land subject to the application that  
4 includes both multifamily, hotel, or motel and commercial uses, the  
5 municipality shall determine the amount of a parkland dedication  
6 based only on the pro rata portion of the land proposed for  
7 multifamily, hotel, or motel use.

8 Sec. 212.208. LIMITATION ON PARKLAND DEDICATION AMOUNT. A  
9 municipality may not require a landowner to dedicate as parkland  
10 under this subchapter more than 10 percent, without adjustment or  
11 disqualification for impairment, of the gross site area of the land  
12 subject to a plan application.

13 Sec. 212.209. INITIAL REQUIREMENTS FOR DETERMINING FEES.

14 (a) For purposes of determining the amount of a fee imposed under  
15 this section, the governing body of a municipality, after providing  
16 at least 30 days' public notice and holding a public hearing, shall  
17 by official action designate all territory within its municipal  
18 boundaries as a suburban area, urban area, or central business  
19 district area. The governing body may use the same designation for  
20 multiple areas in the municipality. The governing body may amend a  
21 designation only during the adoption or amendment of a municipal  
22 comprehensive plan under Chapter 213.

23 (b) Not later than the 10th day after the date the  
24 municipality designates its territory under Subsection (a), the  
25 municipality shall notify each appraisal district in which the  
26 municipality is wholly or partly located of the designation.

27 (c) Once every 10 years, each appraisal district in which

1 the municipality is wholly or partly located shall calculate and  
2 provide to the municipality the average land value for each area or  
3 portion of an area designated by the municipality under Subsection  
4 (a) that is located in the district.

5 (d) If multiple appraisal districts calculate an average  
6 land value for different portions of an area designated under  
7 Subsection (a), the municipality shall determine the area's total  
8 average land value by:

9 (1) multiplying each district's calculated value for  
10 the portion located in the district by the percentage, expressed as  
11 a fraction, that the portion is to the total area; and

12 (2) adding the resulting amounts.

13 (e) In each year other than the year in which an appraisal  
14 district calculates average land values under Subsection (c), a  
15 municipality shall calculate the average land value for each area  
16 designated under Subsection (a) by multiplying the previous year's  
17 average land value for the area by one plus the average consumer  
18 price index for each month of the previous year.

19 (f) A municipality shall set the municipality's dwelling  
20 unit factor, which reflects the number of parkland acres for each  
21 dwelling unit proposed by a plan application. The factor may not be  
22 more than:

23 (1) .005 for multifamily units; and

24 (2) .004 for rooms in a hotel or motel ordinarily used  
25 for sleeping.

26 (g) A municipality shall set the municipality's density  
27 factor, which reflects the diminishing expectation of parkland

1 acres per dwelling unit in increasingly dense urban environments,  
2 for each area designated by the municipality under Subsection (a).

3 The density factor may not be less than:

- 4 (1) one for the suburban area;
- 5 (2) four for the urban area; and
- 6 (3) 40 for the central business district area.

7 Sec. 212.210. GENERAL REQUIREMENTS FOR CALCULATION OF FEES.

8 (a) This section applies only to a municipality to which Section  
9 212.211 does not apply.

10 (b) A municipality shall determine the amount of a fee  
11 imposed under Section 212.205(a)(1) for land subject to a plan  
12 application by:

- 13 (1) adding, as appropriate:
  - 14 (A) the product of the number of multifamily
  - 15 units proposed by the plan by the dwelling unit factor prescribed by
  - 16 Section 212.209(f)(1); and
  - 17 (B) the product of the number of hotel and motel
  - 18 rooms ordinarily used for sleeping proposed by the plan by the
  - 19 dwelling unit factor prescribed by Section 212.209(f)(2);

20 (2) multiplying the sum calculated under Subdivision  
21 (1) by the average land value for the area in which the land is  
22 located; and

23 (3) dividing the product calculated under Subdivision  
24 (2) by the applicable density factor.

25 (c) For purposes of Subsection (b)(1), a municipality shall  
26 exclude from a plan application the number of affordable dwelling  
27 units proposed by the plan.

1       (d) A municipality shall determine the amount of a fee  
2 imposed under Section 212.205(a)(2) for land subject to a plan  
3 application by:

4           (1) calculating the amount of the fee for the land  
5 under Subsection (b); and

6           (2) subtracting from the amount calculated under  
7 Subdivision (1) the product of the land value applicable to the land  
8 and the number of acres dedicated.

9       (e) If a calculation made under Subsection (d) results in a  
10 negative number, the applicable landowner is entitled to receive  
11 from the applicable municipality the amount equal to the positive  
12 difference between the calculated amount and zero. The  
13 municipality shall pay that amount to the landowner at the time of  
14 transfer of fee simple title or the recording of the easement.

15       Sec. 212.211. REQUIREMENTS CALCULATION OF FEES FOR  
16 MUNICIPALITIES WITH LOW FEES. (a) This section applies only to a  
17 municipality that after August 31, 2023, requires a parkland  
18 dedication fee for a multifamily, hotel, or motel development in an  
19 amount, calculated on a per dwelling unit basis, not greater than  
20 two percent of the median family income.

21       (b) A municipality to which this section applies may set a  
22 parkland dedication fee. If the municipality elects to set the fee  
23 in an amount greater than two percent of the municipality's median  
24 family income:

25           (1) this section no longer applies to the  
26 municipality; and

27           (2) the municipality must set the fee in accordance



1 with Section 212.210.

2 (c) A municipality shall determine the amount of a fee  
3 imposed under Section 212.205(a)(2) for land subject to a plan  
4 application by subtracting from the amount of the fee set under  
5 Subsection (b) the product of the land value applicable to the land  
6 and the number of acres dedicated.

7 (d) If a calculation made under Subsection (c) results in a  
8 negative number, the applicable landowner is entitled to receive  
9 from the applicable municipality the amount equal to the positive  
10 difference between the calculated amount and zero. The  
11 municipality shall pay that amount to the landowner at the time of  
12 transfer of fee simple title or the recording of the easement.

13 Sec. 212.212. COLLECTION OF FEES. A municipality shall  
14 provide a landowner a written determination of fees owed under this  
15 subchapter before approving a plan application but may only collect  
16 a fee authorized under this subchapter as a precondition to the  
17 issuance of a final certificate of occupancy.

18 Sec. 212.213. APPEAL. (a) A landowner may appeal a  
19 determination made by a municipal department, board, or commission  
20 regarding any element of a parkland dedication requirement,  
21 including amount, orientation, or suitability, as that element  
22 applies to the landowner's property, to the municipal planning  
23 commission or, if the municipality has no planning commission, the  
24 governing body of the municipality. The appeal must include a  
25 requested adjudication of the issue in controversy.

26 (b) A landowner may appeal a municipal planning  
27 commission's determination under Subsection (a) to the governing

1 body of the municipality.

2 (c) In an appeal under this section, a municipal planning  
3 commission or governing body of a municipality may uphold, reverse,  
4 or modify a parkland dedication requirement as applied to the  
5 landowner making the appeal.

6 (d) A municipal planning commission or governing body of a  
7 municipality shall uphold, reverse, or modify a parkland dedication  
8 requirement that is the subject of an appeal not later than the 60th  
9 day after the date the appeal is filed with the commission or  
10 governing body. If the commission or governing body fails to act in  
11 accordance with this subsection, the parkland dedication  
12 requirement is considered resolved in favor of the landowner's  
13 requested adjudication.

14 SECTION 2. (a) Not later than December 1, 2023, each  
15 municipality to which Subchapter H, Chapter 212, Local Government  
16 Code, as added by this Act, applies shall:

17 (1) effective January 1, 2024:

18 (A) designate the areas of the municipality as  
19 required by Section 212.209(a), Local Government Code, as added by  
20 this Act; and

21 (B) set the municipality's dwelling unit and  
22 density factors, as required by Sections 212.209(f) and (g), Local  
23 Government Code, as added by this Act; and

24 (2) provide to each appraisal district in which the  
25 municipality is wholly or partly located the location of each area  
26 designated under Subdivision (1)(A) of this subsection in a manner  
27 sufficient to allow the appraisal district to make the calculations

1 required by Subsection (b) of this section.

2 (b) Not later than January 1, 2024, each appraisal district  
3 that appraises property located in a municipality described by  
4 Subsection (a) of this section shall calculate and provide to the  
5 municipality the average land values as required by Section  
6 212.209(c), Local Government Code, as added by this Act.

7 SECTION 3. Subchapter H, Chapter 212, Local Government  
8 Code, as added by this Act, applies only to a plan application filed  
9 on or after January 1, 2024.

10 SECTION 4. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2023.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1526 was passed by the House on April 13, 2023, by the following vote: Yeas 119, Nays 24, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1526 was passed by the Senate on May 21, 2023, by the following vote: Yeas 22, Nays 9.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor