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.
"Multifamily unit" means a residential unit other than a detached single-family or two-family dwelling.

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

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

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

"Plan" means a subdivision development plan, subdivision plan, site plan, land development plan, and site development plan each proposing the development of multifamily, hotel, or motel units.

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

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

Sec. 212.204. EXCLUSIVE AUTHORITY; LIMITATION. (a) Notwithstanding any other law, a municipality has exclusive authority within its boundaries to require the dedication of parkland, impose a parkland dedication fee, or both require the
dedication and impose the fee. A municipality may not delegate that
authority to another political subdivision.

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

Sec. 212.205. PARKLAND DEDICATION, FEE, OR COMBINATION.
(a) A municipality may require a landowner to dedicate a portion of
the landowner's property for parkland use, impose a parkland
dedication fee, or both require the dedication and impose the fee
under a plan application filed under this subchapter by:

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

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

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

Sec. 212.206. REQUEST FOR PARKLAND DEDICATION
DETERMINATION. (a) A landowner may, at the landowner's sole
discretion, make a written request to a municipality that the
municipality make a timely determination of the dedication amount
the municipality will impose under the municipality's parkland
dedication requirements as applied to the landowner's property
being considered for development.

(b) A municipality may make a reasonable written request to
the landowner for additional information that is:
(c) A municipality shall respond in writing to a request made under Subsection (a) not later than the 30th day after the date the municipality receives a completed request. If the municipality fails to respond in accordance with this subsection, the municipality may not require a parkland dedication as a condition of approval of a proposed plan or application for property that is the subject of the request.

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

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

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

(A) two years; or

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

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

Sec. 212.207. PARKLAND DEDICATION AUTHORITY. (a) A municipality may not require a parkland dedication, impose a parkland dedication fee, or both require the dedication and impose the fee for any commercial use. For the purpose of this section, a
commercial use does not include a multifamily, hotel, or motel use.

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

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

Sec. 212.209. INITIAL REQUIREMENTS FOR DETERMINING FEES. (a) For purposes of determining the amount of a fee imposed under this section, the governing body of a municipality, after providing at least 30 days' public notice and holding a public hearing, shall by official action designate all territory within its municipal boundaries as a suburban area, urban area, or central business district area. The governing body may use the same designation for multiple areas in the municipality. The governing body may amend a designation only during the adoption or amendment of a municipal comprehensive plan under Chapter 213.

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

(c) Once every 10 years, each appraisal district in which
the municipality is wholly or partly located shall calculate and
provide to the municipality the average land value for each area or
portion of an area designated by the municipality under Subsection
(a) that is located in the district.

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

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

(2) adding the resulting amounts.

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

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

(1) .005 for multifamily units; and

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

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

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acres per dwelling unit in increasingly dense urban environments, for each area designated by the municipality under Subsection (a).
The density factor may not be less than:

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

Sec. 212.210. GENERAL REQUIREMENTS FOR CALCULATION OF FEES.
(a) This section applies only to a municipality to which Section 212.211 does not apply.
(b) A municipality shall determine the amount of a fee imposed under Section 212.205(a)(1) for land subject to a plan application by:

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

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

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

(c) For purposes of Subsection (b)(1), a municipality shall exclude from a plan application the number of affordable dwelling units proposed by the plan.
(d) A municipality shall determine the amount of a fee imposed under Section 212.205(a)(2) for land subject to a plan application by:

1. calculating the amount of the fee for the land under Subsection (b); and
2. subtracting from the amount calculated under Subdivision (1) the product of the land value applicable to the land and the number of acres dedicated.

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

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

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

1. this section no longer applies to the municipality; and
2. the municipality must set the fee in accordance
with Section 212.210.

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

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

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

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

(b) A landowner may appeal a municipal planning commission's determination under Subsection (a) to the governing
(c) In an appeal under this section, a municipal planning commission or governing body of a municipality may uphold, reverse, or modify a parkland dedication requirement as applied to the landowner making the appeal.

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

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

(1) effective January 1, 2024:

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

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

(2) provide to each appraisal district in which the municipality is wholly or partly located the location of each area designated under Subdivision (1)(A) of this subsection in a manner sufficient to allow the appraisal district to make the calculations
required by Subsection (b) of this section.

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

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

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

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.

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.

Secretary of the Senate

APPROVED: __________________________

Date

Governor