

Gallatin County Parkland Credit Program.

The purpose of this policy is to create a method of locating and constructing parks and park facilities within Gallatin County in order to provide the greatest level of service for the people who reside in the county. As a tool to better implement the location of parks within the county the Gallatin County Board of Park Commissioners, the Gallatin County Commission and Local Governments shall developed a tool that utilizes the Local Government Powers given under **MCA 7-1-2103, 7-1-2105, 7-8-2201, 7-16-2105, and 76-3-621**, to enter into contracts with landowners in the county or city to donate land, capital improvements or assets to the people of Gallatin County or Local Government in exchange for credit towards future parkland dedication required through subdivision.

For example, if Mr. Smith is a landowner and developer owns a parcel of land and is willing to donate the land to Gallatin County, under this policy Mr. Smith would be able to receive credit towards future subdivision parkland dedication. The county would then enter into a contract with Mr. Smith allowing him to apply the size of the land parcel toward the parkland dedication requirements of a future subdivision.

The public benefits by gaining access to additional recreational lands and by better locating parklands in areas that will serve a broader level of service and population. The landowner/developer benefits by receiving credit for the parkland dedication as well as not having to maintain or pay taxes on the parkland. It has the potential to be a win-win scenario for everyone.

If Mr. Smith wants the credit for the donated trees to be applied towards a future subdivision that will be annexed into the city limits of a Local Government then parkland credit would have to be approved by the Local Government as well.

Because the provisions of MCA 76-3-621 stipulate that parkland dedication must be in the form of land or cash, any parkland dedication credits received for the donation of capital improvement or facilities are determined by their cash value at the time of donation.

The Local Government will set the requirements of what types of improvements or facilities will be accepted as a donation to be used for their cash value.

DRAFT POLICY

Whereas, MCA 7-1-2103(3) allows the county to “make contracts and purchase and hold property”; and

Whereas, MCA 7-1-2105(6) states “it is within a county's contract authority to enter into any contract necessary for the exercise of its power” as provided or implied by law; and

Whereas, MCA 7-8-2201 authorizes the county commission to, “to purchase, receive by donation, or lease any real or personal property necessary for the use of the county and to preserve, take care of, manage, and control the same.” ; and

Whereas, MCA 7-16-2105 stipulates, “A county may acquire, by purchase, grant, deed, gift, devise, condemnation pursuant to Title 70, chapter 30, or otherwise, lands suitable for public camping, public recreational purposes, civic centers, youth centers, museums, recreational centers, and any combination of the enumerated uses.”; and

Whereas MCA 76-3-621(1) requires a subdivider of land to dedicate to the governing body a “cash or land donation” equal to a specified percentage of the land being subdivided; and

Whereas MCA 76-3-621(4) authorizes “the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both.”; and

Whereas MCA 76-3-621(5) authorizes the county to use the dedicated money for “development, acquisition, or maintenance of parks”.

Now Therefore:

Pursuant to ***Montana Code Annotated 76-3-621(1)*** any subdivision of property in the county is required to dedicate land or give cash in lieu of land to be used for park and recreation purposes to serve the people who will eventually reside there. This policy will implement a tool by which the county can work with landowners, developers and communities to better locate parks, trails, and recreational facilities for use and enjoyment of the people.

A) Land Dedication Policy

1. Requirements for Land Donation Credit. Any landowner or developer wishing to donate land, in exchange for parkland dedication credit must meet the following criteria. Land must have been recognized or designated as future parkland in (a) a Neighborhood Plan created under 76-1-601(4), a Planned Unit Development under 76-3-103(10), a Zoning District created under 76-2-101 or 76-2-201; or (b) the Gallatin County Parks and Trails Plan or applicable Local Government Park and Trails Plan; (c) through a public hearing process conducted by the Board of Park Commissioners or Local Government; (d) must be of an acreage size to serve a Community, Regional or County – wide Level of Service (as defined in Section... of the Gallatin County Parks and Trails Plan, (e) must have potential for both passive and active recreational opportunities as defined in the Gallatin County Park and Trails Plan.

2. Application Process for Land Donation Credit. (a) Landowner or Local Government Staff on the landowners behalf, shall submit a Parkland Credit request form to the County Board of Park Commissioners or Local Government with jurisdiction. The Parkland Credit request shall include the (i) size of property (ii) boundary map of the property (iii) aerial photographs of the property (iv) proof of ownership of the property (v) ground photos of the property (vi) hazardous materials checklist (vii) intended area or population that will be served by the property (viii) location of any utilities or easements on the property (ix) how the public will access the property (x) plan, regulation or policy

recognizing the property as future parkland.(ix) an assessment of the value of the property to be donated based on unimproved, unsubdivided value of the land prepared by a licensed, professional appraiser.

(b) Parkland Credit Request will be forwarded onto the Planning Department and Planning Board with jurisdiction over the area where credits will be applied to for comment on the proposal in regards to its impacts on future planning and development of the Local Government.

(c) Gallatin County Board of Park Commissioners or in the case of a municipality a park advisory board will review the application at a public hearing and make a recommendation to the County Commission or City Commission to accept or deny the application for park credit.

(d) County Commission or City Commission will hold a public hearing on the parkland credit application and determine if the parkland credit will benefit the county or municipality and approve or deny the application.

(e) Landowner and County or Municipality will enter into an exchange agreement (contract) that identifies the terms of the parkland credit agreement. Contract shall include (i) area that parkland credits maybe transferred to (ii) whether or not the parkland credit is transferrable to another party (iii) if the parkland credit may be exchanged for a cash value based on an appraisal prepared by a liscensed appraiser (iv) discretion of the landowner or Local Government in the application of credits (v) deed restriction on the property that will be lifted at the time all parkland dedication credits are extinguished (vi) whether or not any affected municipality accepts the parkland donated

(f) Local Government will issue a Certificate of Parkland Credit identifying (i) the number of acres of credit to the developer to be applied to future subdivisions.(ii) referencing the contract number identifying the terms by which the credits may be applied. The Local Government shall record the original Certificate of Parkland Credit with the Clerk and Recorder. Applicant will retain a copy for use in future subdivision activity.

3. Application of Parkland Credits to future subdivisions: in accordance with the provisions of the Montana Subdivision and Platting act and the Local Government Subdivision Regulations parkland credits will be applied to subdivisions based on the following: (i) at the time of preliminary plat application the developer will provide a calculation of the required parkland dedication for the proposed subdivision. (ii) developer will submit a copy of the Certificate of Parkland Credit with the preliminary plat application with a request to apply the parkland credits toward the parkland dedication requirement of the subdivision. (iii) if the parkland dedication requirement of the subdivision is greater than the amount of parkland credit due to the developer then additional land or cash shall be dedicated pursuant to the subdivision regulations. If the parkland dedication requirement of the proposed subdivision equal less than the parkland credit owned by the developer then the acreage required by the subdivision will be subtracted from the total amount of parkland credit owed by the developer and a new Certificate of Parkland Credit will be issued to the developer recognizing the remaining credit available. The new Certificate of Parkland Credit shall be recorded with the Clerk and Recorder.

B) Asset Dedication Policy: This policy will address the potential for a landowner or developer to donate to the Local Government capital assets in exchange for parkland dedication credits. Because Montana Code allows for dedication of either land, cash or a combination thereof any asset dedications will be treated as Cash in Lieu based on the value of the asset donation.

1. Requirements for Asset Donation Credit. Any landowner or developer wishing to donate assets or capital improvements in exchange for parkland dedication credit must meet the following criteria. (a) assets or improvements must be made to parks that serve a community, regional or county - wide population, as defined in Section... of the Gallatin County Parks and Trails Plan (b) has a rational nexus to serve the subdivision they will be credited towards (c) is identified in a park plan that has been adopted by the Park Commission, County Commission or Unit of Local Government (e) an assessment of value based on at least three different estimates from qualified professionals experienced with the items to be dedicated (ie. if donation is trees, provide three estimates from area nurseries for the price per caliper inch of the trees to be donated).

2. Application Process for parkland credit. (a) Landowner or Local Government Staff on the landowners behalf, shall submit a Parkland Credit request form to the County Board of Park Commissioners or Local Government with jurisdiction. The Parkland Credit request shall include the (i) description of the asset or improvement(s) (ii) value of the fair market value of the improvement(s) based on the assessment provided per B.1.e (above), (iii) proposed location(s) of the improvement(s) (iv) intended area or population to be served by the improvement(s) (v) Park Master Plan and record of adoption of the plan by board or Unit of Local Government with jurisdiction over the park.

(b) Park Commission will review the application at a public hearing and make a recommendation to the County or City Commission to accept or deny the application for park credit.

(c) County or City Commission will hold a public hearing on the parkland credit application and determine if the parkland credit will benefit the Local Government and approve or deny the application.

(d) Landowner and Local Government will enter into a contract that identifies the terms of the parkland credit agreement. Contract shall include (i) area that parkland credits maybe transferred to (ii) whether or not the parkland credit is transferrable (iii) cash value of the improvements (iv) discretion of the landowner or Local Government in the application of credits.

(f) CLocal Government will issue a Certificate of Parkland Asset Credit identifying (i) the cash value of the parkland to be applied to future subdivisions. (ii) referencing the contract number identifying the terms by which the credits may be applied. The Local Government shall record the original Certificate of Parkland Asset Credit with the Clerk and Recorder. Applicant will retain a copy for use in future subdivision activity.

3. Application of Parkland Credits to subdivisions: in accordance with the provisions of the Montana Subdivision and Platting act and the Local Government Subdivision Regulations parkland asset credits will be applied to subdivisions based on the following: (i) at the time of preliminary plat application the developer will provide a calculation of the required parkland dedication for the proposed subdivision

and the appraised value of the unsubdivided unimproved land(ii) developer will submit a copy of the Certificate of Parkland Asset Credit with the preliminary plat application with a request to apply the parkland asset credits toward the parkland dedication requirement of the subdivision. (iii) if the value of the parkland dedication requirement of the subdivision is greater than the value of parkland asset credit due to the developer then additional land or cash must be dedicated pursuant to the subdivision regulations. If the value of the parkland dedication requirement of the proposed subdivision is equal to less than the value of parkland credit due to the developer then the value required by the subdivision will be subtracted from the total amount of parkland credit owed by the developer and a new Certificate of Parkland Asset Credit will be issued to the developer recognizing the remaining credit available. The new Certificate of Parkland Asset Credit shall be recorded with the Clerk and Recorder (iv) The value of parkland dedication credits for assets are the value as determined at the time of the donation, not at the time of the application of credits towards subdivision dedication.