

4-2.5 Public Land Dedication Standards

A. Dedication or Reservation Required

1. Purposes of Dedication.

Each subdivision shall dedicate for public use land for the following purposes required to serve the current and future occupants and users of the subdivision:

- a. If the subdivision contains residential uses, public parks necessary to serve the anticipated needs of the occupants or users of the subdivision; and
- b. If the subdivision contains residential uses, schools necessary to serve the anticipated needs of the occupants or users of the subdivision.

2. Designation Permitted at County's Option.

As an alternative to some or all of the dedications required by subsection 1 above, if the need for the public lands are unclear at the time of subdivision, the county may allow the applicant to indicate that certain lands shown on the plat are reserved for future dedication to the county for specified purposes related to the impacts of the subdivision. If a reservation of land is authorized:

- a. The Open Spaces Director, the Director of Public Works and Development, or both as may be applicable, shall require a reasonable financial guarantee to ensure the future dedication of the land as needed; and
- b. The final subdivision plat shall indicate the permitted use(s) of the reserved lands if Arapahoe County determines that the lands are not required and releases the reservation.

3. Dedication to County or County Designee.

Each dedication or reservation shall be to the County unless the County requests that the lands be dedicated or reserved for the use of another entity lawfully responsible for providing the facility or service or the maintenance thereof, for which the land is to be used. Lawful entities may include special districts, metropolitan districts, or common interest associations.

4. Cash-in-Lieu at County's Option.

- a. In lieu of a dedication of sites and land areas, the County may require the applicant to pay a sum of money, i.e. cash-in-lieu of dedication, not exceeding the full market value of the sites and land areas required by this Section 4-2.5.D, or may require the applicant to make a combination of land dedication(s) and payment(s) in lieu of dedication.
- b. If a payment in lieu is required, the funds received by the County shall be spent only to provide the type of land or facility for which a land dedication could have been required, in a location that will benefit the current or future occupants of the subdivision, and within a reasonable time after receipt of the funds but in no less time than that permitted by state statute.
- c. If cash-in-lieu of dedication of school lands is approved by the county, the payment shall be held in an escrow account by the county for the purposes allowed by C.R.S. § 30-28-133.

5. Estimated Population, Student Population, and Occupancy

Where a proposed subdivision and existing or proposed zoning, or one of either, would allow a range of housing or building types or intensities capable of accommodating a range of potential population, student population, and occupancies, the required land dedications shall be based on those housing and building types and intensities that generate the maximum population, student population, and occupancies, unless the applicant agrees in writing to develop the property so as to ensure lower levels of population, student population, and occupancy. Any such written commitment shall be recorded with the final plat with the Arapahoe County Clerk and Recorder and shall be binding against future owners of the property.

6. Negotiated Dedications

If the total area of land dedication for park uses and/or the locations of those dedications was negotiated between the applicant and the County and documented in a Development Agreement or Planned Unit Development approved by the Board of County Commissioners, then those provisions shall apply unless the development is later modified to significantly change the number of permitted residential dwelling units or employee presence.

B. Final Plat Requirements

1. All lands required to be dedicated by this Section 4-2.5 shall be designated on the final plat and deeded to Arapahoe County or the

agency or entity providing the facility or service on such lands at the time of recording the final plat.

2. Title insurance, provided by a title insurance company authorized to do business in the State of Colorado and acceptable to Arapahoe County, shall be required prior to final execution by the Board of County Commissioners.
3. The title of each parcel of land to be dedicated to the county shall be free and clear of all title encumbrances that could interfere with its use to accommodate the type of facility or the provision of the service for which it is being dedicated, as determined by the county.
4. The applicant will be required to provide a certificate of representations and warranties concerning the title and usability of the property, in a form acceptable to the County, prior to final execution by the Board of County Commissioners.

c. Amount of Public Land Dedicated

1. General Provisions

- a. The proportion of land to be reserved or dedicated for parks and open space shall be based upon the size, location and characteristics of the proposed subdivision, the current and likely future uses of the surrounding area, and the impact of the subdivision on public services and facilities.
- b. All required dedication of land or cash-in-lieu of dedication shall be either:
 - (1) Determined according to a formula approved by the board of county commissioners before being applied to individual subdivision applications; or
 - (2) Found to be roughly proportional both in nature and extent to the anticipated impacts of the proposed development through an individualized determination of impacts conducted by the relevant department Director.
- c. Any platted property that undergoes a zone change resulting in a density not accounted for when previously platted, then unless the County has initiated the rezoning, the requestor shall be subject to the land dedication provisions of this Chapter 4-2 at the time of rezoning. Any subsequent land dedication or cash-in-lieu thereof shall account for any previous such dedication or payment. Nothing

herein shall be interpreted to authorize refunds of payments previously made.

2. Park Land Dedication

The following dedications for use as public parks, open spaces, inclusive of trails, shall be required for each new subdivision that contains residential uses, and for each resubdivision of land that increases the number of residential dwelling units.

a. Amount of Land to be Dedicated

- (1) Unless Section 4-2.5.A.6, Negotiated Dedications, requires a different dedication of land for parks, each applicant shall be required to dedicate park land as shown in Tables XX-XX-1 and XX-XX-2.

Table XX-XX-1 Park Land Dedication – West Service Area¹

Unit Type	Required Dedication per Dwelling Unit
Single-Family Detached	1,180 square feet
Single-Family Attached (duplex, triplex, townhome)	884 square feet
Multifamily	758 square feet

Table XX-XX-2 Park Land Dedication – East Service Area²

Unit Type	Required Dedication per Dwelling Unit
Single-Family Detached	1,289 square feet
Single-Family Attached (duplex, triplex, townhome)	928 square feet
Multifamily	797 square feet

- (2) The applicant shall dedicate that amount of land required by the Open Spaces Department, provided that amount is calculated to reflect the impacts of the proposed subdivision on the park, open space, and trail facilities of the district.

¹ The West Service Area is defined by those properties within the following school districts: Aurora School District 28j, Cherry Creek School District 5, Englewood School District 1, Littleton School District 6, and Sheridan School District 2.

² The East Service Area is defined by those properties within the following school districts: Bennett School District 29j and Byers School District 32j.

- (3) Alternatively, if the applicant believes that unique elements of the development not elsewhere accounted for justify a departure from Table XX-XX.1 or Table XX-XX-2 above, the applicant may submit to the Open Spaces Director a written request with supporting evidence establishing the basis for an alternative dedication proposal. In considering such a request, the Open Spaces Director is authorized to make a final decision and in doing so shall balance the evidence provided by the applicant, the reasonableness of the outcome per Table XX-XX.1 or Table XX-XX.2, the public health and wellness, and the policy and law requiring the dedication, and determine whether a reasonable departure will be allowed and if so, then the extent of the departure, provided it is to the smallest extent necessary to accomplish the intent of this Section 4-2.5.

b. Location and Characteristics of Land to be Dedicated

To the maximum extent practicable, the lands to be dedicated to the County to mitigate the park, open space, and trail impacts of the new subdivision shall comply with the following standards. If standards in the following list are in conflict or would require different areas of land to be dedicated, the Open Spaces Director shall determine which standard shall apply.

(1) Designation in County-Adopted Plan or Agreement

If the subdivision contains land identified in the comprehensive plan, parks plan, or other plan adopted by the board of county commissioners, or an intergovernmental agreement approved by the board of county commissioners, the highest priority shall be given to dedication of those lands.

(2) Contiguous Areas

The land to be dedicated is in one or a few contiguous areas, rather than scattered small sites that would be difficult or expensive to maintain. Narrow strips of land on the periphery of a subdivision or a phase of the subdivision, including sidewalks within or adjacent to right-of-way, are not acceptable for dedication as park, open space, or trails.

(3) Continuity with Existing or Adjacent Park Land

The land is contiguous to land dedicated to the County on abutting land for park purposes and will expand the usefulness or variety of public park activities that can be accommodated.

(4) Protection Unique Site Features and Natural Resources

Dedication of the land will result in the protection or restoration of natural features including but not limited to streams, waterbodies, timber resources, rock outcroppings, native vegetation areas, or wildlife habitats or corridors.

(5) Size, Shape, and Topography

The size, shape, and topography of the site will allow its use for the types of anticipated or proposed park uses of the site. Associated considerations shall include, but not be limited to slope, access, geotechnical conditions, proximity to hazards, utility infrastructure, and drainage.

(6) Legally Complying

The land shall not be burdened by violations of, or out of compliance with, federal, state, or local law. To the extent a violation or noncomplying condition exists, such must be remedied prior to plat approval.

c. Open Spaces in PUDs and Rural Cluster Developments

Open spaces dedicated to the County as part of a Planned Unit Development or rural cluster development shall be counted towards required park land dedications provided (1) they do not conflict with the Comprehensive Plan or another adopted County plan as desired locations for parks, trails, or open spaces and are open for use by the public, and (2) they do not inhibit the dedication of other lands consistent with such plans.

3. School Facility Land Dedications

The following dedications for use to accommodate school facilities shall be required for each new subdivision that contains residential land uses and for each resubdivision of land that increases the number of residential dwelling units.

a. Amount of Land to be Dedicated

- (1) Unless a Negotiated Dedication, as defined by this Code, requires a different dedication of land for schools, each applicant shall be required to dedicate land for schools as shown in Table XX-XX-3.

TABLE XX-XX-3: SCHOOL LAND DEDICATION

WEST SERVICE AREA REQUIRED DEDICATION PER DWELLING UNIT	
UNIT TYPE	
Single-Household Detached	2,206 square feet
Single-Family Attached (duplex, triplex, townhome)	1,253 square feet
Multifamily	937 square feet
EAST SERVICE AREA REQUIRED DEDICATION PER DWELLING UNIT	
UNIT TYPE	
Single-Household Detached	1,694 square feet
Single-Family Attached (duplex, triplex, townhome)	790 square feet
Multifamily	395 square feet

- (2) The applicant shall dedicate that amount of land required by the relevant School District, provided that amount is calculated to reflect the impacts of the proposed subdivision on the school facilities of the district.

- (3) Alternatively, if the applicant believes that unique elements of the development not elsewhere accounted for justify a departure from Table XX-XX.3 above, the applicant may submit to the Director of Public Works and Development a written request with supporting evidence establishing the basis for an alternative dedication proposal. In considering such a request, and following consultation with the School District, the Director of Public Works and Development is authorized to make a final decision and in doing so shall balance the evidence provided by the applicant, the reasonableness of the outcome per Table XX-XX.3, the public health and wellness, and the policy and law requiring the dedication, and determine whether a reasonable departure will be allowed and if so, then the extent of the departure, provided it is to the smallest extent necessary to accomplish the intent of this Section 4-2.5.

b. Location and Characteristics of Land to be Dedicated

To the maximum extent practicable, the lands to be dedicated to the County to mitigate the school impacts of the new subdivision shall comply with the following standards. If standards in the following list are in conflict or would require different areas of land to be dedicated, the Public Works and Development Director, after consultation with the school district, shall determine which standard shall apply.

(1) Designation in County Adopted Plan or Agreement

If the subdivision contains land identified in the Arapahoe County comprehensive plan, another plan adopted by the board of county commissioners, a school District facilities plan, or an intergovernmental agreement approved by the board of county commissioners, the highest priority shall be given to dedication of those lands.

(2) Absence of Natural and Other Hazards

The land shall not be located in the Neighborhood and Community Business District (B-3), Specialty Commercial (B-4), Regional Commercial (B-5), Floodplain (F), Light Industrial (I-1), Heavy Industrial (I-2), or in any other area determined by the Public Works Director to contain hazards to the health or safety of students, including environmental contamination or waste.

(3) Size, Shape, and Topography

The size, shape, and topography of the site will allow its use for the types of anticipated or proposed school uses of the site. Associated considerations shall include, but not be limited to slope, access, geotechnical conditions, proximity to hazards, utility infrastructure, and drainage.

(4) Legally Complying

The land shall not be burdened by violations of, or be out of compliance with, federal, state, or local law. To the extent a violation or noncomplying condition exists, such must be remedied prior to plat approval.

D. Payment In Lieu of Dedication

1. As an alternative to dedication or designation of the amounts of land required pursuant to subsections A, B, and/or C above, the board of county commissioners may accept a cash payment from the applicant in lieu of all or part of the required land dedication. Any decision on whether to accept cash-in-lieu of land dedications shall be made after consulting with any entity or district to which the county would have conveyed the land for the provision of parks, open spaces, trails, or schools.
 - a. Cash-in-lieu payment shall be in an amount equal to, but not exceeding, the market value of the land that would otherwise have to be dedicated, determined in its current unimproved state.
 - b. The unimproved market value of the land shall be determined by an appraisal paid for by the applicant and performed within the last XX months by an individual qualified in the State of Colorado to appraise the value of unimproved land.
 - c. If the County or any district to which the county would have conveyed the land does not believe the appraisal described in subsection c is accurate, that entity may pay for its own appraisal by an individual qualified in the State of Colorado to appraise the value of unimproved land.
 - d. If the two appraisals of the value of the land that would otherwise be required to be dedicated differ by 10 percent or less, the appraisal described in subsection 3 shall apply. If the two appraisals differ by 10 percent or more, the dispute shall be resolved through mediation pursuant to Colorado law.
2. Payment of cash-in-lieu of land dedication shall occur within thirty (30) days of plat approval. Failure to provide timely payment shall constitute grounds for revocation of plat approval.
3. No ground disturbance on the property subject of the plat shall occur prior to payment of cash-in-lieu. Any disturbance of the ground prior to receipt of cash-in-lieu will be subject to a stop work order.

E. Transfer of Dedicated Lands or Cash-in-Lieu

1. After final plat approval and receipt of land dedications, the board of county commissioners shall give written notification to any district or entity that is responsible for providing the types of services or facilities for which the land was dedicated, or on behalf of which it accepted the dedication.
2. Following notice by the board of county commissioners, any such district or entity may request that the land or cash-in-lieu of land dedication be transferred to that district or entity, and the county shall then transfer the lands to that district or entity. Prior to such transfer, the county may request written assurances from the district or entity that the lands or cash-in-lieu will be used for the purposes that justified the dedication or payment.
3. If dedicated land is transferred to a school district, and within 20 years after the dedication the school district determines that the land is not needed for school facilities and proposes to sell the land, the applicant or its successor in interest shall have a right of first refusal to purchase all or part of the dedicated land pursuant to C.R.S. § 30-28-133.