

1-1 By: Hughes S.B. No. 558
 1-2 (In the Senate - Filed January 23, 2023; February 17, 2023,
 1-3 read first time and referred to Committee on Natural Resources &
 1-4 Economic Development; April 11, 2023, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 6, Nays 2;
 1-6 April 11, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 558 By: Hughes

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to parkland dedication for multifamily, hotel, and motel
 1-22 property development by certain municipalities; authorizing a fee.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 212, Local Government Code, is amended
 1-25 by adding Subchapter H to read as follows:

1-26 SUBCHAPTER H. MULTIFAMILY, HOTEL, AND MOTEL PARKLAND DEDICATION:

1-27 MUNICIPALITIES WITH POPULATION OF MORE THAN 800,000

1-28 Sec. 212.201. DEFINITIONS. In this subchapter:

1-29 (1) "Affordable dwelling unit" means a residential
 1-30 unit offered at a below market rate for rent or sale under a
 1-31 municipal, county, state, or federal program.

1-32 (2) "Consumer price index" means the Consumer Price
 1-33 Index for All Urban Consumers (CPI-U), U.S. City Average, published
 1-34 by the Bureau of Labor Statistics of the United States Department of
 1-35 Labor or its successor in function.

1-36 (3) "Improvement" and "market value" have the meanings
 1-37 assigned by Section 1.04, Tax Code.

1-38 (4) "Land value" means the market value of land per
 1-39 acre, not including an improvement to the land.

1-40 (5) "Median family income" means the United States
 1-41 Census Bureau's most recent American Community Survey's five-year
 1-42 estimate of median family income for all families within the
 1-43 applicable municipality.

1-44 (6) "Multifamily unit" means a residential unit other
 1-45 than a detached single-family or two-family dwelling.

1-46 (7) "Parkland" means an area that is designated as a
 1-47 park for the purpose of recreational activity. The term includes an
 1-48 open space, a recreational facility, and a trail.

1-49 (8) "Parkland dedication" means the fee simple
 1-50 transfer of land or the dedication of an easement to a municipality
 1-51 for nonexclusive use as parkland.

1-52 (9) "Parkland dedication fee" means a fee imposed by a
 1-53 municipality on a landowner for the acquisition, development,
 1-54 repair, and maintenance of parkland.

1-55 (10) "Plan" means a subdivision development plan,
 1-56 subdivision plan, site plan, land development plan, and site
 1-57 development plan each proposing the development of multifamily,
 1-58 hotel, or motel units.

1-59 Sec. 212.202. APPLICABILITY. This subchapter applies only
 1-60 to a municipality with a population of more than 800,000.

2-1 Sec. 212.203. CONSTRUCTION. This subchapter may not be
 2-2 construed to prohibit a municipality from requiring by ordinance a
 2-3 landowner to dedicate a portion of the landowner's property for
 2-4 parkland use, impose a parkland dedication fee, or both require the
 2-5 dedication and impose the fee for the development of single-family
 2-6 or two-family uses.

2-7 Sec. 212.204. EXCLUSIVE AUTHORITY; LIMITATION. (a)
 2-8 Notwithstanding any other law, a municipality has exclusive
 2-9 authority within its boundaries to require the dedication of
 2-10 parkland, impose a parkland dedication fee, or both require the
 2-11 dedication and impose the fee. A municipality may not delegate that
 2-12 authority to another political subdivision.

2-13 (b) A municipality may only exercise its authority under
 2-14 this section through a plan application in accordance with this
 2-15 subchapter.

2-16 Sec. 212.205. PARKLAND DEDICATION, FEE, OR COMBINATION.
 2-17 (a) A municipality may require a landowner to dedicate a portion of
 2-18 the landowner's property for parkland use, impose a parkland
 2-19 dedication fee, or both require the dedication and impose the fee
 2-20 under a plan application filed under this subchapter by:

2-21 (1) paying a fee set in accordance with Section
 2-22 212.210(b) or 212.211(b), as applicable; or

2-23 (2) dedicating a portion up to the maximum size
 2-24 authorized under Section 212.208 and paying a reduced fee set in
 2-25 accordance with Section 212.210(d) or 212.211(c), as applicable.

2-26 (b) A municipality may allow a landowner to elect a parkland
 2-27 dedication, a parkland dedication fee, or a dedication and fee
 2-28 under Subsection (a).

2-29 Sec. 212.206. REQUEST FOR PARKLAND DEDICATION
 2-30 DETERMINATION. (a) A landowner may, at the landowner's sole
 2-31 discretion, make a written request to a municipality that the
 2-32 municipality make a timely determination of the dedication amount
 2-33 the municipality will impose under the municipality's parkland
 2-34 dedication requirements as applied to the landowner's property
 2-35 being considered for development.

2-36 (b) A municipality may make a reasonable written request to
 2-37 the landowner for additional information that is:

2-38 (1) publicly and readily available; and

2-39 (2) necessary to provide a determination under this
 2-40 section.

2-41 (c) A municipality shall respond in writing to a request
 2-42 made under Subsection (a) not later than the 30th day after the date
 2-43 the municipality receives a completed request. If the municipality
 2-44 fails to respond in accordance with this subsection, the
 2-45 municipality may not require a parkland dedication as a condition
 2-46 of approval of a proposed plan or application for property that is
 2-47 the subject of the request.

2-48 (d) A parkland dedication determination issued under this
 2-49 section:

2-50 (1) is a legally binding determination of the amount
 2-51 of the landowner's parkland dedication for the property that is the
 2-52 subject of the determination; and

2-53 (2) is applicable to the property that is the subject
 2-54 of the determination for a period that is the lesser of:

2-55 (A) two years; or

2-56 (B) the time between the date the determination
 2-57 is issued and the date a plan application is filed that uses or
 2-58 relies on the determination.

2-59 (e) A landowner may release in writing a municipality from a
 2-60 determination made under this section.

2-61 Sec. 212.207. PARKLAND DEDICATION AUTHORITY. (a) A
 2-62 municipality may not require a parkland dedication, impose a
 2-63 parkland dedication fee, or both require the dedication and impose
 2-64 the fee for any commercial use. For the purpose of this section, a
 2-65 commercial use does not include a multifamily, hotel, or motel use.

2-66 (b) If a plan application submitted to a municipality
 2-67 proposes development of the land subject to the application that
 2-68 includes both multifamily, hotel, or motel and commercial uses, the
 2-69 municipality shall determine the amount of a parkland dedication

3-1 based only on the pro rata portion of the land proposed for
 3-2 multifamily, hotel, or motel use.

3-3 Sec. 212.208. LIMITATION ON PARKLAND DEDICATION AMOUNT. A
 3-4 municipality may not require a landowner to dedicate as parkland
 3-5 under this subchapter more than 10 percent, without adjustment or
 3-6 disqualification for impairment, of the gross site area of the land
 3-7 subject to a plan application.

3-8 Sec. 212.209. INITIAL REQUIREMENTS FOR DETERMINING FEES.

3-9 (a) For purposes of determining the amount of a fee imposed under
 3-10 this section, the governing body of a municipality, after providing
 3-11 at least 30 days' public notice and holding a public hearing, shall
 3-12 by official action designate all territory within its municipal
 3-13 boundaries as a suburban area, urban area, or central business
 3-14 district area. The governing body may use the same designation for
 3-15 multiple areas in the municipality. The governing body may amend a
 3-16 designation only during the adoption or amendment of a municipal
 3-17 comprehensive plan under Chapter 213.

3-18 (b) Not later than the 10th day after the date the
 3-19 municipality designates its territory under Subsection (a), the
 3-20 municipality shall notify each appraisal district in which the
 3-21 municipality is wholly or partly located of the designation.

3-22 (c) Once every 10 years, each appraisal district in which
 3-23 the municipality is wholly or partly located shall calculate and
 3-24 provide to the municipality the average land value for each area or
 3-25 portion of an area designated by the municipality under Subsection
 3-26 (a) that is located in the district.

3-27 (d) If multiple appraisal districts calculate an average
 3-28 land value for different portions of an area designated under
 3-29 Subsection (a), the municipality shall determine the area's total
 3-30 average land value by:

3-31 (1) multiplying each district's calculated value for
 3-32 the portion located in the district by the percentage, expressed as
 3-33 a fraction, that the portion is to the total area; and

3-34 (2) adding the resulting amounts.

3-35 (e) In each year other than the year in which an appraisal
 3-36 district calculates average land values under Subsection (c), a
 3-37 municipality shall calculate the average land value for each area
 3-38 designated under Subsection (a) by multiplying the previous year's
 3-39 average land value for the area by one plus the average consumer
 3-40 price index for each month of the previous year.

3-41 (f) A municipality shall set the municipality's dwelling
 3-42 unit factor, which reflects the number of parkland acres for each
 3-43 dwelling unit proposed by a plan application. The factor may not be
 3-44 more than:

3-45 (1) .005 for multifamily units; and

3-46 (2) .004 for rooms in a hotel or motel ordinarily used
 3-47 for sleeping.

3-48 (g) A municipality shall set the municipality's density
 3-49 factor, which reflects the diminishing expectation of parkland
 3-50 acres per dwelling unit in increasingly dense urban environments,
 3-51 for each area designated by the municipality under Subsection (a).
 3-52 The density factor may not be less than:

3-53 (1) one for the suburban area;

3-54 (2) four for the urban area; and

3-55 (3) 40 for the central business district area.

3-56 Sec. 212.210. GENERAL REQUIREMENTS FOR CALCULATION OF FEES.

3-57 (a) This section applies only to a municipality to which Section
 3-58 212.211 does not apply.

3-59 (b) A municipality shall determine the amount of a fee
 3-60 imposed under Section 212.205(a)(1) for land subject to a plan
 3-61 application by:

3-62 (1) adding, as appropriate:

3-63 (A) the product of the number of multifamily
 3-64 units proposed by the plan by the dwelling unit factor prescribed by
 3-65 Section 212.209(f)(1); and

3-66 (B) the product of the number of hotel and motel
 3-67 rooms ordinarily used for sleeping proposed by the plan by the
 3-68 dwelling unit factor prescribed by Section 212.209(f)(2);

3-69 (2) multiplying the sum calculated under Subdivision

4-1 (1) by the average land value for the area in which the land is
 4-2 located; and

4-3 (3) dividing the product calculated under Subdivision
 4-4 (2) by the applicable density factor.

4-5 (c) For purposes of Subsection (b)(1), a municipality shall
 4-6 exclude from a plan application the number of affordable dwelling
 4-7 units proposed by the plan.

4-8 (d) A municipality shall determine the amount of a fee
 4-9 imposed under Section 212.205(a)(2) for land subject to a plan
 4-10 application by:

4-11 (1) calculating the amount of the fee for the land
 4-12 under Subsection (b); and

4-13 (2) subtracting from the amount calculated under
 4-14 Subdivision (1) the product of the land value applicable to the land
 4-15 and the number of acres dedicated.

4-16 (e) If a calculation made under Subsection (d) results in a
 4-17 negative number, the applicable landowner is entitled to receive
 4-18 from the applicable municipality the amount equal to the positive
 4-19 difference between the calculated amount and zero. The
 4-20 municipality shall pay that amount to the landowner at the time of
 4-21 transfer of fee simple title or the recording of the easement.

4-22 Sec. 212.211. REQUIREMENTS CALCULATION OF FEES FOR
 4-23 MUNICIPALITIES WITH LOW FEES. (a) This section applies only to a
 4-24 municipality that after August 31, 2023, requires a parkland
 4-25 dedication fee for a multifamily, hotel, or motel development in an
 4-26 amount, calculated on a per dwelling unit basis, not greater than
 4-27 two percent of the median family income.

4-28 (b) A municipality to which this section applies may set a
 4-29 parkland dedication fee. If the municipality elects to set the fee
 4-30 in an amount greater than two percent of the municipality's median
 4-31 family income:

4-32 (1) this section no longer applies to the
 4-33 municipality; and

4-34 (2) the municipality must set the fee in accordance
 4-35 with Section 212.210.

4-36 (c) A municipality shall determine the amount of a fee
 4-37 imposed under Section 212.205(a)(2) for land subject to a plan
 4-38 application by subtracting from the amount of the fee set under
 4-39 Subsection (b) the product of the land value applicable to the land
 4-40 and the number of acres dedicated.

4-41 (d) If a calculation made under Subsection (c) results in a
 4-42 negative number, the applicable landowner is entitled to receive
 4-43 from the applicable municipality the amount equal to the positive
 4-44 difference between the calculated amount and zero. The
 4-45 municipality shall pay that amount to the landowner at the time of
 4-46 transfer of fee simple title or the recording of the easement.

4-47 Sec. 212.212. COLLECTION OF FEES. A municipality shall
 4-48 provide a landowner a written determination of fees owed under this
 4-49 subchapter before approving a plan application but may only collect
 4-50 a fee authorized under this subchapter as a precondition to the
 4-51 issuance of a final certificate of occupancy.

4-52 Sec. 212.213. APPEAL. (a) A landowner may appeal a
 4-53 determination made by a municipal department, board, or commission
 4-54 regarding any element of a parkland dedication requirement,
 4-55 including amount, orientation, or suitability, as that element
 4-56 applies to the landowner's property, to the municipal planning
 4-57 commission or, if the municipality has no planning commission, the
 4-58 governing body of the municipality. The appeal must include a
 4-59 requested adjudication of the issue in controversy.

4-60 (b) A landowner may appeal a municipal planning
 4-61 commission's determination under Subsection (a) to the governing
 4-62 body of the municipality.

4-63 (c) In an appeal under this section, a municipal planning
 4-64 commission or governing body of a municipality may uphold, reverse,
 4-65 or modify a parkland dedication requirement as applied to the
 4-66 landowner making the appeal.

4-67 (d) A municipal planning commission or governing body of a
 4-68 municipality shall uphold, reverse, or modify a parkland dedication
 4-69 requirement that is the subject of an appeal not later than the 60th

5-1 day after the date the appeal is filed with the commission or
5-2 governing body. If the commission or governing body fails to act in
5-3 accordance with this subsection, the parkland dedication
5-4 requirement is considered resolved in favor of the landowner's
5-5 requested adjudication.

5-6 SECTION 2. (a) Not later than December 1, 2023, each
5-7 municipality to which Subchapter H, Chapter 212, Local Government
5-8 Code, as added by this Act, applies shall:

5-9 (1) effective January 1, 2024:

5-10 (A) designate the areas of the municipality as
5-11 required by Section 212.209(a), Local Government Code, as added by
5-12 this Act; and

5-13 (B) set the municipality's dwelling unit and
5-14 density factors, as required by Sections 212.209(f) and (g), Local
5-15 Government Code, as added by this Act; and

5-16 (2) provide to each appraisal district in which the
5-17 municipality is wholly or partly located the location of each area
5-18 designated under Subdivision (1)(A) of this subsection in a manner
5-19 sufficient to allow the appraisal district to make the calculations
5-20 required by Subsection (b) of this section.

5-21 (b) Not later than January 1, 2024, each appraisal district
5-22 that appraises property located in a municipality described by
5-23 Subsection (a) of this section shall calculate and provide to the
5-24 municipality the average land values as required by Section
5-25 212.209(c), Local Government Code, as added by this Act.

5-26 SECTION 3. Subchapter H, Chapter 212, Local Government
5-27 Code, as added by this Act, applies only to a plan application filed
5-28 on or after January 1, 2024.

5-29 SECTION 4. This Act takes effect immediately if it receives
5-30 a vote of two-thirds of all the members elected to each house, as
5-31 provided by Section 39, Article III, Texas Constitution. If this
5-32 Act does not receive the vote necessary for immediate effect, this
5-33 Act takes effect September 1, 2023.

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