

THE MUNICIPAL URBAN PLANNING LEGISLATION IN UBERLÂNDIA-MG: THE CONSTITUTION OF A HIGHWAY POLICY AND THE ABSENCE OF URBANITY IN NEW URBAN SUBDIVISIONS

A LEGISLAÇÃO MUNICIPAL DE PLANEJAMENTO URBANO EM UBERLÂNDIA-MG: A CONSTITUIÇÃO DE UMA POLÍTICA RODOVIÁRIA E A AUSÊNCIA DE URBANIDADE EM NOVAS SUBDIVISÕES URBANAS

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Abstract

This article analyzes the urban planning legislation of Uberlândia-MG and how it contributes to the constitution of real estate developments such as land subdivisions resulting in low availability of quality public areas, building a city where public spaces are not prioritized. In opposition, there is the constitution of areas using anticipation of public areas that prioritize and consolidate a highway policy, with the opening of road systems such as streets and highways, hampering the constitution of urbanity in the new lot subdivisions in the city. These legislations are also analyzed for their constitutionality, making comparisons with the laws of other municipalities. Also, some projects are highlighted in order to illustrate how public areas are being arranged in local urban developments, here understood as urban subdivisions. In order to do so, it was consulted the city planning legislation of Uberlândia-MG with a survey in other urban planning legislations of Brazilian cities and in the processes of approval of land parceling with the Municipal Department of Urban Planning of the city under study.

Keywords: urban Planning Legislation, Brazilian urbanization, Public areas, medium-sized cities, Uberlândia.

Abstract

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Este artigo analisa a legislação de planejamento urbano de Uberlândia-MG e como ela contribui para a constituição de empreendimentos imobiliários, como loteamentos, resultando em baixa disponibilidade de áreas públicas de qualidade, construindo uma cidade onde os espaços públicos não são priorizados. Em oposição, há a constituição de áreas utilizando a antecipação de áreas públicas que priorizem e consolidem uma política rodoviária, com a abertura de sistemas viários como ruas e rodovias, dificultando a constituição da urbanidade nas subdivisões do novo lote na cidade. Essas legislações também são analisadas por sua constitucionalidade, fazendo comparações com as leis de outros municípios. Além disso, alguns projetos são destacados para ilustrar como as áreas públicas estão sendo organizadas em empreendimentos urbanos locais, aqui entendidos como subdivisões urbanas. Para tanto, foi consultada a legislação de urbanismo de Uberlândia-MG com levantamento em outras legislações de planejamento urbano das cidades brasileiras e nos processos de aprovação de loteamento com a Secretaria Municipal de Planejamento Urbano do município em estudo.

Palavras-chave: Legislação de planejamento urbano, urbanização brasileira, áreas públicas, cidades médias, Uberlândia.

INTRODUCTION

This work begins by elaborating an overview of the existing and available urban policy instruments to the construction of Brazilian cities in order to avoid new urban problems and to remedy preexisting issues, as a result of the accelerated urbanization observed in Brazilian cities in the last century.

We will take an approach to observe how municipal legislation has contributed to the constitution of Brazilian cities with few public areas and consequently low urbanity, in particular Uberlândia, in the State of Minas Gerais (MG).

In this line of thought, the objective is to analyze the law of local land parceling in conjunction with complementary legislation of public areas anticipation and how these laws contribute to the construction of the contemporary city, from the point of view of new urban subdivisions approved in the municipality.

In order to do so, it was used the consultation of said laws and approval processes of subdivisions filed at the Municipal Planning Department of the Municipality of Uberlândia

(PMU) so as to verify how the legislation is applied in the elaboration of the urban projects of these new ventures.

The municipal legislation was also consulted in some Brazilian municipalities whose municipal legislation is complemented by municipal law, in order to verify how these municipalities establish their criteria for defining the percentages of public areas donated to the public power in the case of urban land subdivision. That allowed a comparison of the legislation of the city of Uberlândia-MG with the legislation of other Brazilian municipalities.

Finally, final conclusions should be made about the results of these processes of land parceling in the city under study and the consequences on the shape of the contemporary city.

FOR ANOTHER CITY VISION - AN UNFINISHED URBAN AGENDA

The Brazilian cities, as well as the other urban centers of countries considered in development, went through historical moments of great population growth and huge contingent of migration from the countryside to the cities without adequate planning, resulting in several urban problems.

The process of urbanization in Brazil occurred in a rapid and disorderly manner, mainly from the middle of the XX century, with the great migration of the population that changed the rural environment by the new opportunities offered by the cities. The growth and development of Brazil boosted the emergence of several cities, mainly with the implementation of industries, which made possible new jobs that attracted the population who lived in the countryside.

The city of Uberlândia-MG is developed in this context. It emerged at the end of the 19th century and began its growth process with the arrival of the railroad that connected the region of the Triângulo Mineiro to several locations in the country. In a second moment, with the construction of Brasília, Uberlândia attracts investments and population of diverse regions of Brazil due to its privileged urban location between the main cities of the country.

The city of Uberlândia is located in the State of Minas Gerais, region of Triângulo Mineiro, next to the federal highway BR-050 that interconnects the cities of São Paulo and Brasília, according to Image 01 below.

Image 01: Location of Uberlândia-MG.

Source: By Raphael Lorenzeto de Abreu from <https://commons.wikimedia.org/w/index.php?curid=1113615>. Accessed on 04/27/2017.

The misapplication of urban planning instruments and accelerated growth have had consequences for these urban centers: problems of basic sanitation (lack of treatment and distribution of water and sewage); traffic congestion (due to lack of space on the streets); lack of housing; environment pollution; lack of green areas (such as squares and parks); industries and households in the same area (causing environmental, public health and neighborhood conflicts); noise; violence and various other disorders that result in poor quality of life for society. One of the consequences of the misapplication of urban planning instruments in cities is the low urbanity observed in public spaces.

In the midst of this urban problem developed in the country, discussions have arisen to regulate urban planning, correcting and avoiding growth distortions in the short, medium and long term. Brazil (2010) stresses that the historical pressure of social movements has placed the issue of access to urban land and social equity at the top of the list of urban development and policy agendas. The response to this process was the regulation of the chapter "Urban Policy" of the Brazilian Constitution (1988), in order to promote a fundamental long-term reform in the urban dynamics. As a consequence, the fundamental structures of this new legal-urban order were sheltered in the Constitution of 1988 and in Law 10.257 of 2001, known as the Statute of the City (EC).

The EC brings to the discussion of society the urban problems. To Leite (2012) the participation of the community in the process of elaborating urban planning guidelines and urban design through exhibitions, public debates and workshops for example, is fundamental for the development of successful urban projects. Thus, the EC brings the population involved in

urban problems to discuss their issues and contribute to the process of drafting laws that will drive the growth and development of cities.

The accelerated growth of Brazilian cities, with the consequent peripherization that results in concentrations with poor housing and without basic sanitation and generates retention of idle land, contributes to the elevation of the cost of the urbanization process and of its unsustainability. In this way, the dependence of the vehicle generates criticism around the world, with the small investment in public transportation and the high urbanization costs of these areas.

[...] urban sprawl or expansion with low relative density (...) requires limited resources to be spent on the construction of new infrastructures, not on the maintenance of pre-existing ones. Since the sprawl encourages populations to leave previously established communities, the tax base of such communities decreases, resulting in a reduction in public services offered to the rest of the population (KEELER & BURKE, 2010, p.214).

The EC places the guarantee of the right to sustainable cities as the first guideline of urban policy, encompassing the right to urban land, housing, environmental sanitation, urban infrastructure, transportation and public services, work and leisure, to present and future generations. In this context, the EC joins the current concepts of urban sustainability.

Leite (2012) states that the concept of a sustainable city recognizes that it must meet the social, environmental and cultural objectives as well as the economic and physical goals of its citizens. This thinking fits the tripod of sustainability that involves the concepts of economic growth, environmental and social responsibility; only through the harmonious union of these three we achieve a sustainable development.

The sustainable city must operate according to a model of urban development that seeks to efficiently balance the resources necessary for its operation, whether in input sources (urban land and natural resources, water, energy, food, etc.) or in output sources (waste, sewage, pollution, etc.). That is, all resources should be used as efficiently as possible to achieve the goals of urban society. Supply, efficient handling, sustainable management, and equal distribution of the city's basic consumption resources to the entire urban population are part of the basic needs of the urban population and items of enormous relevance in building new paradigms of sustainable development, including pressing challenges such as increased permeability in cities (LEITE, 2012, page 135).

The concept of sustainable city as guiding principle of the CE directs the planning measures of Brazilian cities. The Master Plan (PD) emerges as a way of planning the Brazilian cities, being a basic tool to guide the development and planning policy of the urban expansion of the municipality. It is a municipal law elaborated with the participation of the City Hall and

civil society and aims to establish and organize the growth, operation and territorial planning of the city and guide the investment priorities in the city. The compliance of the city's new ventures with the guidelines of this plan is essential for city planning.

The PD's purpose is to guide the actions of public and private power, aiming at reconciling collective interests and guaranteeing more equitably the benefits of urbanization, ensuring the principles of urban reform, the right to the city and citizenship and the democratic management of the city.

That way, urbanism as a technique for correcting urban problems in association with urban planning must be implemented through legal norms, combining the norm and planning in the construction of guidelines for urban planning. Sant'anna (2007)

Still according to the same author, the government's function is to guarantee the quality of life of the urban citizen through measures that aim to organize the urban territory for use and occupation by the community. And for these urban legal norms to be well-formed and effective they will have to be based on a good analysis of the reality for which they are intended, as well as on future planning.

In order for these goals and targets to be achieved, an entire process of action must be based on instruments that justify them. The three instruments: Multi-annual Plan, PD and Zoning are part of the urban planning that must be carried out according to an adequate implementation process.

As long as planning is not formalized and provided for in legal instruments such as these, it will only be ideas or proposals without implementation. The implementation of urban transformations depends on the planning, which is a process that is expected to implant several steps at certain times and in accordance with forecasts adequately contained in different planning instruments (SANT'ANNA, 2007, pp. 26-7).

Thus, the 2001 EC proposes a new form of urban development based on singular concepts and opens possibilities for the creation of sustainable urban environments and a new urbanism.

In 1992, the United Nations (UN) Rio-92 on the Environment defends the right to citizenship, democratic management of the city and the social function of the city and of property. After 20 years the United Nations Conference on Sustainable Development, known as Rio + 20, was held in Rio de Janeiro in 2012. Its objective was to discuss the renewal of political commitment to sustainable development.

We also recall that important discussions were held in 2016 in Quito (Ecuador) at the HABITAT III International Conference. The conference documents, available at the event's

electronic address (www.habitat3.org), propose the city to be seen in a holistic and systemic way. The discussions were focused on issues of social cohesion and equity, urban infrastructure, real estate and socio-spatial segregation, urban economics and ecology, resilience, housing and basic services. This event demonstrated the importance of thinking about the city in a systemic way and searching for urban sustainability through a more complete approach, encompassing environmental, social, economic, political and cultural issues. Governance through public policies and social cohesion is essential in 21st century city thinking.

The search for cities that have a sustainable development is therefore recurrent in both national and international politics.

Rogers (2012) defines well the role of municipal public power and the participation of the population in this planning process aiming at urban sustainability:

Municipal power and participatory citizenship balance the inefficiency of federal governments to deal with the diversity and specificity of urban problems. Greater municipal autonomy and greater citizen participation will create public policies to solve precise problems of specific environments. The municipal government itself is better placed to decide on the needs of its transport programs, social welfare, education and energy. If the city is committed to the issue of sustainability, then the citizens themselves are brought into a movement for effective collaboration against the global environmental crisis. The network of cities creates a global network of interdependent citizens (Rogers, 2012, p.172).

Despite the distance between national reality and available legislation, we can observe through the analysis of some parameters of Brazilian legislation, such as the EC, that we already have instruments that can guide us towards a path that brings the public policies of the country closer to reaching goals increasingly audacious in building a socially and environmentally more just and balanced society.

Part of the complementary legislation of the municipality of Uberlândia-MG analyzed with in this article, such as LC 523/2011 (land subdivision), LC 519/2010 (Regulates Urban Policy Instruments), LC 10.181/2010 (Anticipates areas of the Ring Road) were drawn up at a favorable moment in the country's economy. For Santos Jr & Montandon (2011), municipal legislations should have provided an opportunity to strengthen urban planning in municipalities in order to reduce social and urban infrastructure deficits.

The author summarizes that urban planning in Brazilian municipalities requires a cultural change that overlaps pragmatism, immediacy and technocratic practices of urban management.

We will also observe in the analysis of the following cases, according to Stroher (2017), the continuity of an urban trajectory marked by exclusion in which we see the prioritization of economic growth in a detached form from social reproduction.

What is noticed in this context of the neoliberal city is that the laws are created from logics that attend the urban capital, here understood like the real estate market being part of that capital. The State for Marques (2016) starts to depend on and rely on the private sector, establishing a relationship of power between companies and political actors, reserving to the capitals of construction and production of the city a prominent economic role.

We will observe below that in the specific case of municipal urban legislation contemplated by complementary laws, foreseen in LC 432 of 10/19/201 (PD), it does not show familiarity with an urban policy focused on sustainability that seeks social cohesion through the availability of quality public spaces that privilege people. The existing Urban Policy Instruments do not demonstrate the immediacy and pragmatism in the construction of these policies, as established by Santos Jr & Montandon (2011).

THE CURRENT URBAN PLANNING LEGISLATION IN UBERLÂNDIA-MG AND THE CONSTRUCTION OF THE CONTEMPORARY CITY

Complementary Law 523 of April 7, 2011 talks about the land subdivision in the city of Uberlândia-MG. Extending the concept of land parceling foreseen in Federal Law 6766/1979 which includes two forms of land subdivision, dismemberment and land parceling, the complementary law establishes the following forms of payment in addition to the two forms foreseen in federal law: dismemberment, conventional subdivision, closed subdivision, business subdivision, recreational sites, reallocation and also the implementation of community companies and equipment.

Until the date of enactment of Complementary Law 523/2011, the parceling of land in the municipality was governed by Complementary Law 245/2000. The difference, in relation to the percentage of donation of public areas, is that Complementary Law 245/2000 anticipated donation of Institutional Area in the order of 10% and Public Recreation Area totaling 7%.

For all these types of land parceling, except for the implementation of community companies and equipment, which is also considered a form of land subdivision by the complementary law, it is expected the donation of public areas regulated by said municipal law.

Therefore, according to LC 523/2011, public areas are donated as follows: 20% for the road system, 5% for the institutional area, 5% for public recreation and 7% for the domanial area. The exception of these amounts is the business subdivisions, whose donation of the domanial area is 5%. Reallocation also provides for donations in kind, through financial evaluation of the area and study of demand for public equipment.

The institutional area is intended for the implantation of community equipment, and the public recreation area is intended for the implantation of leisure equipment and green areas, established by Complementary Law 525/2011. The domanial area is a public area figure without specific allocation.

Several questionings were made to the municipality of Uberlândia-MG by the State Public Ministry (MPE) about the destination and constitutionality of said domanial areas donated to the municipality in the processes of land parceling.

The LC 111 of July 25, 2006, PD of the Municipality of Santa Fé do Sul (State of São Paulo), in the chapter dealing with the approval of land parceling, predict the donation of 5 to 10% of Domanial Area, depending on the modality installments. There is jurisprudence related to the unconstitutionality of the figure of said domanial areas in the municipality. The Court of Justice of the State of São Paulo (TJE-SP) through the Registration Judgment 2014.0000288423 of 05/14/2014 related to the municipality of Santa Fé do Sul-SP, decrees the municipal legislation of this municipality as unconstitutional (LC 111 of 25 July 2006).

The TJE-SP declares that said law is contrary to the destination in which Federal Law 6766/1979 specifies that public areas will be destined to the circulation system, the implantation of urban and community equipment, as well as free spaces of circulation of public use. Therefore, any use that contravenes this prerogative of federal law may be construed as unconstitutional.

We understand that in the specific case of the city of Uberlândia-MG, the non-allocation of the so-called Domanial Area for specific use may resort to uses that contravene federal legislation and fall into unconstitutionality, in the case that these areas are used for purposes that are not foreseen in Article 4, Item I of Federal Law 6766/1979.

Also according to jurisprudence, in representation of the MPE referring to the municipal law that promoted the disallocation of public goods for sale concludes that the goods of common use of the people cannot be object of disallocation and, therefore, they are not susceptible of alienation or of cession of use right or of real right. Federal Law 6766/1979 protects the destination of the public areas subjected to land subdivision and does not allow the

municipality to change or contradict this premise and fail when legislating inconsistently with its character of complementing federal law.

Still by analogy, we must pay attention to the destination to which it specifies the public areas reserved in the urban land parceling. In the city of Uberlândia-MG a bill was passed that changes the name of the Domanial Area established by LC 523/2011 for Specific Destination Area. The new name was forwarded to the Municipality of Uberlândia with letter PGM nº 799/2017 of May/2017, which defines it as the area of ownership of the Municipal Government allocated for special administrative purposes of public interest for future use in collective and state needs such as exchange, payment in kind, indemnification for expropriation, disposal in case of relevant interest public, donation, concession of use, concession of right of use, cession of use, permission to use and authorization to use, Article 4 (I). This specific destination area would cover 7% of the amount of what could be the subdivision area, while the donation of institutional area would be restricted to 5%, as well as donation of public recreation area.

Therefore, municipalities are responsible for defining their figures of public areas donated in the form of land parceling, as well as the percentage of public area donated, as long as they meet the use established in Article 4 of Federal Law 6766/1979, restricting itself to donate areas that are destined to circulation, implantation of urban and community equipment, as well as spaces free of public use.

The table below lists some Brazilian municipalities, their land parceling legislation and the percentages of public areas donated for approval of land parceling. We do not show in the table below the percentages destined for circulation/road system.

Table 01: Distribution of donation of public areas in the urban land parceling in some Brazilian municipalities

Municipality	Municipal Law Number	Date of Law	Minimum amount of Institutional Area or corresponding	Minimum amount of Green Area, Free Area or corresponding
Americana/SP	LO 3270	01/15/1999	8%	12%
Anápolis/GO	LC 131	10/30/2006	7,5%	7,5%
Araraquara/SP	LC 3369	07/15/1987	10%	10%
Caxias do Sul/RS	LC 6810	12/20/2007	7,5%	7,5%

Chapecó/SC	LC 541	11/26/2014	15% ²	6%
Cuiabá/MT	LC 231	05/16/2011	5%	10%
Goiânia/GO	LC 7222	09/20/1993	-	15% ³
Limeira/SP	LC 212	06/09/1999	7,5%	7,5%
Londrina/PR	LC 7483	07/20/1998	3%	7%
Macapá/AP	LC 030	06/24/2004	15% ou 18% ⁴	10% ⁵
Maringá/PR	LC 889	07/27/2011	4%	6% ⁶
Montes Claros/MG	LC 3720	05/09/2007	5%	7,5%
Ponta Grossa/PR	LO 10408	11/03/2010	-	15% ⁷
Presidente Prudente/SP	LC 154	01/10/2008	5%	10%
Ribeirão Preto/SP	LC 2157	01/31/2007	5%	15% a 35% ⁸
São Carlos/SP	LC 13691	11/25/2005	8%	10%
Sorocaba	LO 11022	12/16/2014	5%	20%
Uberaba/MG	LC 375	06/18/2007	De 3% a 8% ⁹	De 3% a 15% ¹⁰

² The Chapecó legislation foresees donation of 15% of public areas, with a minimum of 6% of this total destined for the conservation or implantation of green areas.

³ The Goiânia legislation foresees the donation of at least 15% of areas destined to the implantation of communitarian equipment and free spaces of public use, in other words, it does not distinguish the free or green areas of the institutional areas.

⁴ It depends on the zoning where the subdivision will be inserted.

⁵ It depends on the zoning where the subdivision will be inserted. Commercial and Mixed Sector 4 (2%), Residential Sector 1 and Mixed 1 and 2 (8%), Residential Sector 3 and 5 and Mixed 3 (4%), Residential Sector 2, Leisure 1, 2 and 3 (10%), Residential Sector 4 (4%).

⁶ In Maringá, there is the figure of the Public Interest Areas (3%) and Public Use Free Spaces, the first one is destined to housing of social or cultural interest, sports, administrative or institutional purposes, among others, adding in the same way leisure areas. The Public Use Free Spaces add the squares, areas of the subdivision reserved for the common and/or special use of the people, for recreation, leisure and outdoor activities. The legislation also foresees the landscaping routes that are designed to delimit the valley bottom areas of the subdivisions and to allow free access to these, for monitoring and conservation purposes by the Municipality to a water course of at least 60,00m, thus guaranteeing green areas that are beyond the 30m of Permanent Preservation Area.

⁷ The donation of 15% of public area is destined for the implantation of urban and community equipment, as well as spaces free of public use.

⁸ Donation of 25% in the Zone of Controlled Urbanization and Preferential Urbanization Zone. The donation of Green and Leisure Areas in Restricted Zones is 35%.

Source: Legislation specific to each municipality cited in the table, organized by the author.

The table shows that the donation parameters of public areas in Brazilian cities, despite the municipalities' peculiarities, are very similar. In general, the sum of the institutional areas (that are destined to the implantation of social and communitarian equipment) with the green areas (that are destined to the implantation of free, green and leisure areas) are around 15 to 20% of the available subdivision area.

The average percentage of donation of green, free or corresponding areas is 11% in the cities shown in Table 1. At this point, if we compare with the donation of public areas for this end in Uberlândia-MG (Areas of Public Recreation), the city is below this average, with the donation of 5% of the available subdivision area for this purpose.

The importance of these areas for leisure and the deployment of green and free areas in cities can be demonstrated in various ways in the construction of a sustainable and socially cohesive city.

The EC establishes that the urban policies in its directives emphasize the guarantee of the right to sustainable cities in order to avoid the degradation of urbanized areas, the pollution and the environmental degradation, among others. The same law also establishes as a premise the guarantee of the democratic management of cities, through instruments such as urban collegiate, audiences and public consultations, conferences, among others.

The new Forestry Code approved by Federal Law 12.651/2012 and amended by Law 12.727/2012 refers to the urban green area as public or private spaces with a predominance of vegetation, preferably native, natural or recovered, foreseen in the PD, in the Urban Zoning and Land Use Laws of the Municipality. They are unavailable for housing construction and destined for recreation, leisure, improvement of urban environmental quality, protection of water resources, maintenance or improvement of the landscape, protection of property and cultural manifestations. In order to implement these areas, the municipal public authority may use the right of preemption to acquire relevant forest remnants, transformation of Legal Reserves into

⁹ According to Annex II Table 2, 3% is related to donation of areas destined to public equipment for business subdivisions. For subdivisions in Zones of Social Interest, the donation is 8% and for the other areas 5%.

¹⁰ According to Annex II Table 2, 3% is related to the donation of green areas for subdivisions located in the Business Zone 4, 5% is related to the donation of green areas to Farms Zones 2, for Controlled Densification Macro-zones the donation is of 15%, as well as in Restricted Occupation Macro-zones (ZCS2, ZR2, ZM1 and ZSQM). The other areas donate 10% of green areas.

green areas in urban expansions, demand for green areas in subdivisions and commercial developments and implement infrastructure and resources from environmental compensation.

Therefore, the availability of green areas in Brazilian cities and consequently spaces available for recreation, leisure, protection of water resources, etc., is directly related to their availability in the urban land parceling processes, whose percentage is established by complementary laws of the municipality.

Speck (2012) establishes a theory about city walkability in which public spaces such as sidewalks and parks are essential in establishing a trust relationship between the pedestrian and the city, improving people's perception of the city and contributing to quality of life, health and social relations.

Gehl (2013) calls for a paradigm shift in cities that also prioritizes their relationship with people, in which the maximum expression of urbanity takes place in public and free spaces, such as streets, sidewalks, parks, etc.

According to Silva (2017), the effects of the urban form under the normative perspective have factors for their studies to advance, emphasizing that the city needs clear urban planning rules in order to solve its environmental conflicts and advocating diversity and democratic transparency in the construction of a cohesive city. It is also necessary to prioritize the planning, projects, quality drawings and also the understanding of architecture as a cultural manifestation in the service of the qualification of the city's spaces and way of living.

The constitution of a just city goes through democratic decisions including popular participation. Urban democracy permeates prioritization of issues such as diversity and equity, centralizing the power of the population in planning decisions, as Fainstein (2010) states. In this context, the participation of the population in the constitution of laws that directly affect the public and collective interest would be fundamental.

In this way, the availability of public spaces is essential for urban thinking that envisions a cohesive, safe and healthy city. The absence of these free and quality spaces does not condition the construction of better cities and contributes to unsustainability and to the creation of ghettos and spaces without urbanity, such as closed subdivisions and shopping malls, where the population takes refuge since the city does not provide quality public spaces.

In Uberlândia-MG, the unavailability of these spaces is worrying, especially in the new urban subdivisions, considering the future of these neighborhoods and the inhabitants living in these localities.

Some laws were created in order to anticipate the donation of public areas from urban subdivisions to road system implantation. It should be pointed out that although the road system encompasses pedestrian areas, these laws contemplate the opening of roads for motorized transport, such as the new connection of the city to the airport, new traffic routes interconnecting mainly the closed subdivisions of the South sector of the city and the implementation of part of the Ring Road in the Eastern Sector, the largest of these works.

All three of these works are clearly a prioritization of the individual and road transport system since these roads do not include pedestrian spaces or a high demand for public transport. On the contrary, it is a policy in which the more road system available for individual transportation, the better for local traffic, thus creating large arterial roads and highways within the city.

Maricato (2012) seeks to answer the question of why the road question is increasingly deepened in our society, despite the social and environmental problems clearly observed in this policy. According to the author, these priorities are related to the financing of electoral campaigns and the remarkable visibility of their products. In the case under study, the political visibility denoted in the construction of a large work as the Ring Road in the city of Uberlândia-MG is relevant.

The major problem generated by public area road construction is that the opening of these road systems, established by municipal law, allows owners affected by this deployment to use these credits of public areas in any urban subdivision, drastically reducing the public areas in the new subdivisions of the city, as we will see ahead.

The municipality obtained a recommendation from the MPE, through the Public Prosecutor's Office of the Citizen of the Region of Uberlândia, dated September 20, 2012, by the then Attorney for Defense of the Environment, Housing and Urbanism, Fábio Guedes de Paula Machado, determining that the Municipal Secretariat of Urban Planning and the Environment and other Secretariats do not receive any more lands or part of them as an anticipation of public areas so that the Municipality carry out works, particularly roads. It also requires that the secretaries of these parts demand the owners of these assignor glebes to, when approving subdivisions on these properties, they allocate the percentage of public areas required by law, ie 20% for the road system, 10% for institutional area and 7% for public recreation area (green areas).

The table below shows the laws of anticipation created, their purpose and also the areas made available for use as public areas in urban subdivisions of Uberlândia.

Table 2: List of Laws of anticipation of public areas approved in Uberlândia-MG

Law Number	Type of credit allowed by law	Purpose of creation of the Law	Anticipated area
10.064 of 12/15/2008 and its amendments	Public areas computed when the areas where they are located are subdivided or in other subdivisions located in the urban perimeter of Uberlândia.	Implementation of the access roads to the airport.	118.334,91sqm
11.144 of 06/20/2012	Road system when future installments of the larger area where it is inserted.	Implantation of connection between roads, allowing access to the airport and also to Av. Zulma Costa and Solidariedade.	56.973,03sqm
10.384 of 12/17/2009 and its amendments	Public areas computed when the areas where they are located are subdivided or in other subdivisions located in the urban perimeter of Uberlândia.	Linking the Vinhedos, Aruã, Rafael Marinho Neto, Padre Manoel da Costa and Carlito Cordeiro Avenues, visualizing connection with the Eastern Sector. Extension of Seme Simão Avenue.	66.694,13sqm
10.181 of 06/19/2009 and its amendments	Public areas computed when the areas where they are located are subdivided or in other	Implantation of the Ring Road of Uberlândia, north contour and complement of the Eastern Contour.	1.355.820,05sqm

	subdivisions located in the urban perimeter of Uberlândia.		
TOTAL ANTECIPATED PUBLIC AREA			1.597.822,55sqm

Source: Official Gazette of the Municipality of Uberlândia and Municipal Secretary of Urban Planning.

The above table demonstrates that the aforementioned public area anticipation laws allow the use of 1,597,822.55 square meters of areas in urban subdivisions of the city. This is a quantitative of great significance when thinking that several subdivisions will no longer donate public areas in the place, contributing to a city without free and available spaces for deployment of community and social equipment or even green areas, highlighting characteristics that privilege the road system for cars and other vehicles, instead of pedestrians.

We will exemplify some subdivisions that used public area credits established by the above laws.

The Acácias Uberlândia subdivision was approved on 07/29/2011 through the process 4,905/2011. It was approved through LC 245/2000, later revoked by LC 523/2011. The referred law provided donation of 10% of institutional area and 7% of Public Recreation Area. Accordingly, the subdivision offset the institutional areas of the subdivision using Law 10181/2009 and Law 10384/2009. Its table of areas was distributed as follows.

Table 3: Summary table of the Acácias Uberlândia Conventional Subdivision

Summary table of areas of the Acácias Uberlândia Conventional Subdivision		
Available subdivision area	149.058,75sqm	100%
Public Recreation and Leisure Area	6.938,37sqm	4,65%
Road system	36.550,57s	2

	qm	4,52%
Lot area	101.531,8	6
	3sqm	8,12%

Source: Subdivision Project approved by PMU through process 4905/2011 of 07/29/2011.

The Jardim Espanha subdivision was approved on 06/03/2014 through the process 11,919 / 2012. As can be seen in the table below, it was approved in accordance with LC 523/2011 and only 1.58% in the institutional area and 1.8% in the Public Recreation Area were donated on site, with credits referring to Law 10,181/2009 being used.

Table 4: Summary table of areas of the Jardim Espanha Conventional Subdivision

Summary table of areas of the Jardim Espanha Conventional Subdivision		
Total Available Subdivision Area	190.123,84sqm	
Institucional Area	3.000,00sqm	1,58%
Public Recreation Area	3.428,30sqm	1,80%
Road System	59.858,01sqm	31,48%
Lot Area	123.837,53sqm	65,13%

Source: Subdivision Project approved by PMU through process 11919/2012 of 06/03/2014.

The Colorado subdivision was approved on 01/28/2014 through the process 12,605/2012. The table below shows the distribution of its public areas. According to the approved project, 5,343.26 sqm of area anticipation credits were used to complement the donation.

Tabela 5: Summary table of areas of the Colorado Conventional Subdivision

Summary table of areas of the Colorado Conventional Subdivision			
Total	Available	102.292,98sqm	100%
Subdivision Area			
Institucional Area		4.481,91sqm	4,38%
Public Recreation Area		9.156,50sqm	8,95%

Road System	36.982,18sqm	36,15%
Lot Area	50.864,13sqm	49,73%

Source: Subdivision Project approved by the PMU through process 12605/2012 of 01/28/2014.

The Granja Marileusa subdivision was approved on 02/12/2012 through the process 10,449/2012, with a total available subdivision area of 253,946.35sqm. The credits referring to Law 10,181/2009 were also used, failing to donate 1,920, 09sqm of Public Recreation Area, 17,776.27% of Domanial Area and 12,697.32sqm of Institutional Area, totaling 32,393.65sqm of non-donated area in the place.

The Alphaville 1 subdivision, approved on 05/12/2014 through the process 1,786/2011, with an available subdivision area of 423,351.02sqm, didn't donate the Domanial Area of 27,292.10sqm. In the image below follows an illustration of the developer regarding the urban development project of the subdivision. It should be noted that the green highlighted areas observed to the right are Permanent Preservation Areas, and the green areas to the left are illustrative, not belonging to the subdivision and also referring to Areas of Permanent Preservation. The areas of Public Recreation are dispersed in small areas confined within the subdivision. The leisure area highlighted in the center of the image is located in a lot belonging to the association of residents of the subdivision. In gray, below the image, stands out an Institutional Area located outside the walls of the subdivision. Therefore, we observed that there are no free public areas for recreation and leisure outside the subdivision, contributing to the isolation of the resident population in the interior in relation to the external population, affirming conditions of socio-spatial segregation, made possible by the public policies associated with the elaboration of laws for the anticipation of public areas.

Image 02: Alphaville 1 Subdivision, Uberlândia-MG.

Source: <http://www.granjamareusa.com.br/noticias/novidades/alphaville-uberlandia> . Accessed in 06/20/2017.

The Alphaville 2 subdivision, approved on 11/03/2015, through the process 8,971/2015, with a 361,479.00sqm of available subdivision area, no longer donates the Institutional Area of 18,073.95sqm and 23,303.58sqm referred to the Domanial Area.

Since we do not care to know how many credits have already been used from previous anticipations, but to demonstrate that they are being used in urban subdivisions and that these developments fail to donate public areas in these projects, it should be pointed out that there is available to the real estate market 1,597,822.55sqm that will no longer be donated in land parceling within the urban perimeter of the city.

FINAL CONSIDERATIONS

This text intends to demonstrate how the municipal legislation contributes to the constitution of the contemporary form of the Brazilian city, specifically the city of Uberlândia-MG. What can be observed in cities of the 21st century in Brazil are fragmented urban structures, dispersed, segregated socially and with serious environmental problems.

In this context, the complementary laws approved in the city related to the land parceling processes legitimize a process of devaluation of public spaces, mainly in the constitution of green areas and leisure, allowing approval and consolidation of poor in free and green areas urban subdivisions, which are essential for the constitution of a city that values the

citizen, their relations and social cohesion, the environment and that would be spaces rich in urbanity.

We observe that the elaboration of these laws, especially the law of anticipation of the public area, is a clear valorization of a retrograde road policy in contradiction to policies that would give the city urban spaces that value people and their relations with the public space. The current policy contributes to the creation of subdivisions with few free areas and makes the existing public areas usually comprising a road system and areas for the implementation of public equipment. These are essential to citizens' care but not conclusive in the constitution of free spaces and quality green areas to guarantee social cohesion, contemplation, leisure or environment preservation.

Another figure observed in the municipal legislation are the Domanial Areas, already considered by jurisprudence as unconstitutional, where the public areas to be donated to the municipality do not fulfill its essential function of being to service to all population of the city. This happens because these areas serve as a bargaining chip for the executive branch and can be exchanged, sold, exchanged, among other forms of session, thus contradicting its essentially public character.

There is much talk in urban justice and right to the city in the present times. However, we see that the current legislative political system, which attributes great power to locality to legislate on urban issues, does not contribute to the constitution of cities that are territorially or socially cohesive. The lack of a regional urban policy and the tenuous link between political interests and private interests consolidate urban problems and accentuate serious steps in the urban question of the Brazilian city.

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