

## **CITY OF DRIPPING SPRINGS**

### **ORDINANCE No. 2021-**

AN ORDINANCE REPEALING ARTICLE 28.03 AND ADOPTING A REVISED ARTICLE 28.03 PARKLAND DEDICATION IN THE CITY OF DRIPPING SPRINGS CODE OF ORDINANCES CHAPTER 28; ENABLING THE CITY TO GAIN AND MAINTAIN CERTAIN ATTRIBUTES OF PARKLAND; REQUIRING A PARK DEVELOPMENT FEE; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; AMENDMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

**WHEREAS**, the City Council of the City of Dripping Springs (“City Council”) seeks to gain and maintain parkland in the City of Dripping Springs, Texas (“City”) and its Extraterritorial Jurisdiction (“ETJ”); and

**WHEREAS**, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Texas Local Government Code Chapter 212, the City has authority to regulate subdivisions; and

**WHEREAS**, pursuant to Texas Local Government Code Section 331.005, the City can control and manage parks within the City; and

**WHEREAS**, pursuant to Texas Local Government Code Section 331.001, the City can acquire land and facilities to be used for public parks and playgrounds by gift, devise, or purchase; and

**WHEREAS**, it is hereby declared by the City Council that recreational areas in the form of neighborhood parks and community parks are necessary and in the public’s welfare; and

**WHEREAS**, the only adequate procedure to provide for parks is to integrate such requirements into the planning and development of property or subdivisions in the City and its ETJ, whether such development consists of new construction on vacant land or rebuilding and remodeling of structures on existing property; and

**WHEREAS**, existing parks in the City currently serve the needs of several neighborhoods located within the city limits and the ETJ, and are located within an approximate one-half to five-mile radius of City residents and ETJ users; and

**WHEREAS,** Founders Memorial Park and Sports and Recreation Park provide amenities that are typical in community parks, providing services to users in the city and ETJ alike due to the absence of community park facilities within the ETJ. Together, neighborhood parks and community parks can meet more of the recreational needs of residents; and

**WHEREAS,** this amendment is adopted to provide recreational areas in the form of neighborhood park facilities, community park facilities, and other park facilities as a function of the subdivision and site development ordinance of the City of Dripping Springs and its ETJ; and

**WHEREAS,** the costs associated with development and maintenance of neighborhood and community parks should be borne by the landowners of residential property who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities; and

**WHEREAS,** the requirements within the ordinance are adopted to affect the purposes stated above; and

**WHEREAS,** the City Council finds that the amendments imposed by this Ordinance are reasonable, necessary, and proper for the good government of the City; and

**WHEREAS,** the City Council had a meeting and a public hearing on January 12, 2021 and recommended approval; and

**WHEREAS,** the City Council finds that the amendment proposed is reasonable, necessary, and proper for the good government of the City of Dripping Springs.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dripping Springs, Texas:**

### **1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

### **2. AMENDMENT**

Article 28.03 as currently adopted is repealed. A new Article 28.03: Parkland Dedication and Park Development of the City of Dripping Springs Code of Ordinances is hereby adopted so to read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

### **3. REPEALER**

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

#### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

#### **5. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

#### **6. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon passage and publication of caption.

#### **7. PROPER NOTICE & MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED** this, the 12<sup>th</sup> day of Janaury 2021, by a vote of \_\_\_\_ (ayes) to \_\_\_\_ (nays) to \_\_\_\_ (abstentions) of the City Council of the City of Dripping Springs, Texas.

**CITY OF DRIPPING SPRINGS:**

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Bill Foulds, Jr., Mayor

**ATTEST:**

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Andrea Cunningham, City Secretary

## ATTACHMENT “A”

### ARTICLE 28.03 PARKLAND DEDICATION and PARK DEVELOPMENT

#### Sec. 28.03.001 Title

This Ordinance shall be known and cited as the Parkland Dedication and Park Development Ordinance.

#### Sec. 28.03.002 Purpose

The purpose of this Section is to provide parks, open spaces, and trails that implement the Parks, Recreation, and Open Space Master Plan. The City of Dripping Springs City Council has determined that parks, open spaces, and trails are necessary for public welfare, and that the adequate procedure to provide these community amenities is by integrating standards into the procedures for planning and developing property.

This article is enacted to enable the City to gain and maintain the following attributes of parkland:

- 1) Enhancement of the community’s quality of life, which embraces its livability, aesthetic integrity, and sense of community;
- 2) Ecological and environmental preservation, biodiversity, improving water quality, air cleansing, aquifer recharge, and flood control;
- 3) Scenic vistas unique to the Texas Hill Country that engage the park user in leisure recreation;
- 4) Facilities for active recreation and sporting events;
- 5) Places for engaging in passive recreation;
- 6) Economic contribution of parks and open spaces to the vitality of the city;
- 7) Promotes cultural, artistic and sporting endeavors;
- 8) Meets the goals of the Comprehensive Plan and the Parks, Recreation, and Open Space Master Plan;
- 9) Provision of a fair and equitable park system, utilizing park amenities that are sustainable, durable and of high quality; and
- 10) Provision or enhancement of park connectivity throughout the city via linear parkland and greenways that create unimpeded wildlife corridors as well as house multimodal pedestrian access trails.

#### Sec. 28.03.003 Definitions

- 1) **Rule of interpretation.** Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below but are defined elsewhere in the Code of Ordinances or other documents as adopted by the city, shall be given the meanings

set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa). The word “shall” is always mandatory, while “may” is merely directory. Headings and captions are for reference purposes only. Any reference to the City Parks Plan, City Open Space Plan, or General Parks Plan in this or any other ordinance or document is synonymous with the Parks, Recreation, and Open Space Master Plan.

- 2) **Active Recreation.** Public recreational areas that accommodate youth and adult level team sports (baseball, football, soccer, lacrosse, etc.) and provide practice/game fields for organized recreational leagues.
- 3) **Applicant.** A person or entity who submits to the City of Dripping Springs an application for an approval required by this article. To be qualified as an Applicant under this article, the person or entity must have sufficient legal authority or proprietary interests in the land to commence and maintain proceedings under this article. The term shall be restricted to include only the property owner(s), or a duly authorized agent and representative of the property owner. In other jurisdictions, the term is sometimes referred to as the “developer”, “subdivider”, “builder”, or other similar title.
- 4) **City.** The City of Dripping Springs, an incorporated municipality located in Hays County, Texas. Unless otherwise stated, the term includes both the city limits and the extra-territorial jurisdiction (ETJ).
- 5) **Concept Plan.** A drawing of the overall conceptual layout of a proposed development, superimposed upon a topographic map which generally shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the City’s administrative officers, the PRC, the P&Z, the City Council, and others who are consulted prior to preparation of the Preliminary Plat. In other jurisdictions, the term is sometimes referred to as a “preliminary site plan” or a “land study”.
- 6) **Development.** The construction, reconstruction, conversion, structural alteration, relocation, renovation, or enlargement of any structure on land. The term also includes any mining, excavation, landfill, or land disturbance.
- 7) **Dwelling Unit (DU or DUs).** Any building, structure, or portion of a structure, which is designed, used, or intended to be used, for human occupancy as primary living quarters.
- 8) **ETJ.** The extraterritorial jurisdiction of the City.
- 9) **Fee-in-lieu.** A developer may request, and the City may approve, an option whereupon, developers may be required to contribute cash instead of parkland dedication and parkland development and is commonly referred to as “fee-in-lieu”. In such instances, the fee-in-lieu amount required is equal to the fair market value of the required parkland acreage for dedication and the cost for park development as designated in the Methodology section of this article.

- 10) **General Parks Plan.** Statement of the suitability of the parkland in meeting the criteria for parks as outlined in this ordinance and a detailed description of any proposed improvements shall be in accordance with recommendations as outlined in the City's Code of Ordinances, as well as the Parks, Recreation, and Open Space Master Plan.
- 11) **Open Space.** Within Parkland, Open Space is parkland that is to be kept essentially unimproved and dedicated for the public or private use. The primary functions of this type of parkland are the protection of hill country scenic vistas, protection of quiet rural lifestyle, and conservation of native wildlife. Open space may feature, but is not limited to, minimal improvements such as walking trails, picnic sites, and/or benches. Open space may include, but is not necessarily required to include, land restricted by conservation easements.
- 12) **Park Fund.** The fund in which fee-in-lieu and other park funds are deposited and which can only be used for the development, maintenance, or acquisition of parks, trails, and related facilities.
- 13) **Parkland.** Platted tract of land designated and used for recreation or open space.
- 14) **Parks and Recreation Commission (PRC).** Citizens' advisory body appointed by the City Council which acts generally in an advisory capacity to the City Council in the acquisition, development, utilization, operation, improvement, equipment and maintenance of all park playgrounds and recreational areas owned or controlled by the city. Described more fully in Article 2.04: Boards, Commissions and Committees: Division 3: Parks and Recreation Commission.
- 15) **Parks, Recreation, and Open Space Master Plan.** Guiding document for establishing the framework of a long-term, successful park system for the City of Dripping Springs. The document is updated every five years to ensure that the park system remains viable for the citizens of the city and it's ETJ.
- 16) **Park Service Area.** In accordance with the Parks, Recreation, and Open Space Master Plan, the City of Dripping Springs and ETJ are sectioned off into service areas. These service areas provide guidance for development of the park system.
- 17) **Park Trail.** Multiple-purpose trails located within parks. The focus of the trail is on recreational values and harmony with the surrounding natural environment. Trails shall accommodate a variety of activities, including pedestrians and/or bicyclists.
- 18) **Private Park/Recreation Facility.** Private park areas and recreational facilities are privately owned yet make a contribution to the overall public park and recreation system because they contribute to the leisure activities of the neighborhood or park service area in which they are located.

#### **Sec. 28.03.004                      Applicability and Parks, Recreation, and Open Space Master Plan**

This article applies to all property within the city limits and the extraterritorial jurisdiction (ETJ). This article applies to applications for which City approval is sought under the City's subdivision ordinance and site development ordinance, as may be amended. The costs associated with

development and maintenance of neighborhood and community parks should be borne by the landowners of residential property, who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. The requirements within the ordinance are adopted to affect the purposes stated above.

- 1) The guiding document for all park and recreation development will be the most current Parks, Recreation, and Open Space Master Plan and any updates to the plan which occur from time to time, based on input from the community and approval by the City Council of Dripping Springs. Determination of acceptability of a proposed neighborhood park dedication and development and/or for a proposed community park dedication and development or cash-in-lieu is based upon the City of Dripping Springs Parks, Recreation, and Open Space Master Plan, as may be amended from time to time.
- 2) Neighborhood parks are the cornerstone of the park system and serve as the recreational and social focus of the neighborhood. Focus is on informal active and passive recreation. These parks are typically  $\frac{1}{4}$  to  $\frac{1}{2}$  mile distance from all areas it serves and uninterrupted by non-residential roads and other difficult barriers.
- 3) Community parks are designed to serve both active and passive leisure needs of residents. Most users come from surrounding areas larger than what a neighborhood park typically serves. Community parks are located within park service areas established by the City.
- 4) Existing parks in Dripping Springs currently serve the needs of several neighborhoods located within the city limits and in the ETJ and are located within a one-half- to five-mile radius (approximate) of Dripping Springs residents and ETJ users. Founders Memorial Park and Sports and Recreation Park provide amenities that are typical in community parks, providing services to users in the city and ETJ alike due to the absence of community park facilities within the ETJ. Together, neighborhood parks and community parks can meet more of the recreational needs of residents.
- 5) The methodology is the formula that is used to determine the requirement for acreage to be dedicated per Dwelling Unit, fees required in lieu of the dedication of parkland, number of acres required per Dwelling Unit to meet the criteria of parkland dedication, as well as the Park Development Fee.

#### **Sec. 28.03.005           Exemptions for Certain Projects**

- 1) Statutory exemptions. Properties that are subdivided for residential use where the lots are greater than five (5) acres, and no other public improvements are required, are not subject to the required dedication of parkland or open space, but are still required to pay the Park Development Fee unless otherwise exempted.
- 2) Small projects. Subdivisions and site developments generating five (5) Dwelling Units or fewer are exempt from the dedication requirements in this article. Applicants may not attempt to utilize this exemption by separating the project into a series of smaller projects. The exemption authorized by this Section may only be utilized once and may not apply to subsequent divisions of the property. This exception applies to replats that do not increase

the Dwelling Units for the subdivision by five (5) or more. Such projects are still required to pay the Park Development Fee unless otherwise exempted

- 3) Historic District. Properties located within the Historic District are exempt from parkland dedication requirement, unless more than twenty-five (25) Dwelling Units are proposed, but are still required to pay the Park Development Fee unless otherwise exempted.

#### **Sec. 28.03.006            Parkland Dedication and Development Methodology**

##### **1) Parkland Dedication and Parkland Development Calculations.**

- a) For the purpose of this Section, parkland dedication and parkland development calculations reflect the maximum possible land dedication, parkland development, and fee-in-lieu of land dedication allowable. The City, at its option, may reduce the required land dedication and fee-in-lieu of payment if other opportunities are deemed worthwhile and suitable for parks or trails in accordance with the Parks, Recreation, and Open Space Master Plan and allow the applicant to contribute to its proportional share of park and recreational facilities.

##### **2) Basis for Current Level of Service.**

- a) Parkland dedication and park development fees are based on the current level of park service for the greater Dripping Springs area. This park service area is defined as the same geographic service area for the Dripping Springs Independent School District (DSISD). The dedication and fee requirements are subject to change whenever the Parks, Recreation, and Open Space Master Plan is updated, whenever the U.S. Census Persons Per Household or other population estimates are revised and/or in conjunction with annual changes in land values or costs for park development.
- b) According to the Dripping Springs Independent School District Demographic Update, which was completed in Spring 2019, and prepared by Population and Survey Analysts, the number of households in the DSISD/City of Dripping Springs park service area is 13,701<sup>A</sup>. According to the 2019 U.S. Census Bureau<sup>B</sup>, the average number of persons per owner occupied household in the greater Dripping Springs area is 3.03 persons per household (PPH) and is referred to as the Dwelling Unit or DU (Sec. 28.03.003 Definitions). The estimated population 2019 projection for the Drippings Springs park service area is 41,514<sup>C</sup>.
- c) References for Data.
  - i. A. - The DSISD student projection for the 2020-2021 school year is 7,810 students per the Dripping Springs Independent School District Demographic Update Spring 2019. That same publication estimates that there is a weighted average of 0.57 students per single family home. This projects to 13,701 homes in the Dripping Springs park service area.



- ii. B.  
<https://www.census.gov/quickfacts/fact/table/drippingspringscitytexas,US/PS/T045219>
- iii. C. – 31,701 homes multiplied by 3.03 persons per household = 41,514 population.
- iv. D – Source: City of Dripping Springs Parks, Recreation, and Open Space Master Plan 2014-2024.

1) Rationale for Parkland Dedication and Park Development Fees.

a)

Current Level of Service	
<b>Population (City &amp; ETJ)</b>	41,514 (based on DSISD Service area)
<b>Total Existing Parkland</b>	590.99 acres
<b>Total Persons Per Acre</b>	70 People
Land Dedication Requirements	
<b>Persons per DU</b>	3.03 (2019 Census)
<b>Calculation</b>	$41,514 / 590.99 = 70$ people per acre of parkland; $70 \text{ people} / 3.03 \text{ PPH} = 23.10$ or 23 DU
<b>Dedication Criteria</b>	1 acre of parkland/23 Dwelling Units
Fee-in-Lieu of Land Requirements	
<b>Average Cost per Acre</b>	Market Rate, determined by an appraisal performed at the time of the request
<b>Dwelling Unit</b>	Market Value Per Acre for each required acre of dedication (1 acre/23 DUs)
Park Development Fee	
<b>Cost of 50 Acre Park</b>	\$6,739,129

<b>Number of persons per active recreation community parks</b>	20,757
<b>Calculation</b>	$\$6,739,129/20,757 =$ \$324/person; \$324 x 3.03 PPH
<b>Fee Per Dwelling Unit</b>	\$983

- b) The fee model for an active recreation park in Dripping Springs is based on a fifty (50) acre park comparable to a community park as designed in the Dripping Springs, Parks, Recreation, and Open Space Master Plan.
- c) The model estimates a development cost of \$6,739,129.
- d) The park development budget is required to be equal to or greater than the Park Development Fee required and must be approved by the Parks and Recreation Commission and City Council. The park development costs greater than the Parkland Development Fee is not transferable to other development projects.
- e) If the applicant's proposed development is in a park service area that identifies a future community or active use park, the City may request that the applicant dedicate land for the park. In that case, an offset may be considered against the required fee-in-lieu of land required.

**Sec. 28.03.007          Dedication of Public Parkland Required.**

1) Residential Dedication Requirements.

- a) For projects where the use includes residential dwelling units, an applicant who subdivides or plats land under the city's subdivision ordinance, excluding replats, amending plats, and minor plats that do not increase the subdivision's density by more than five (5) Dwelling Units, shall provide for the dedication or designation of land suitable for parkland and recreation purposes. If parkland is not dedicated at the time of platting, but would be required for a project as presented at site development, then parkland shall be dedicated as required in this ordinance at the time of site development.
- b) Land dedicated as a requirement of this ordinance shall be suitable for parkland and recreation purposes.
- c) The minimum acreage of Public Parkland required shall be as follows:
  - i. One (1) acre for each 23 dwelling units, or fraction thereof.
  - ii. Residential subdivisions with fewer than 23 dwelling units shall dedicate five percent (5%) of overall acreage of the property to be subdivided as public parkland.

2) The land to be dedicated shall form a single lot with a minimum of one (1) acre required.

3) Exemptions.

- a) When the developer/subdivider is proposing to dedicate the required acreage to satisfy the Public Parkland dedication requirements, but not as a single lot, the Parks and Recreation Commission may make a recommendation to City Council to approve the parkland dedication if they find that it meets the intent of the code, and the proposed parkland lots have access from a public right-of-way.
- b) A developer shall make a financial contribution in accordance with 28.03.006, and the City's Adopted Fee Schedule, in lieu of dedication of Public Parkland when:
  - i. No portion of the tract of land is located within the City limits; or
  - ii. The developer does not dedicate at least an acre of parkland and less than one (1) acre of land would be required to satisfy the Parkland dedication requirements.
- 4) The rate required for the financial contribution shall be in accordance with the adopted fee schedule in accordance with the Methodology in 28.03.006, provided herein. The fee shall be reviewed on annual basis to ensure accuracy and value.

**Sec. 28.03.008                      Criteria for Dedication.**

- 1) Any land to be dedicated to meet the requirements of this Section shall be suitable for public parks and recreational activities as determined by the City Administrator or their designee, and comply with the following standards and requirements:
  - a) The Parkland lot shall be centrally located within the development, when practical.
  - b) Where residential subdivision is proposed to be developed in phases, the Parkland lot shall be located within the first phase of the development. If the required Public Parkland is proposed to be outside of the first phase, the first phase may be approved provided that fee-in-lieu of dedication is paid for the number of Dwelling Units within that first phase. In this event, the fee paid may be credited toward the required Parkland Dedication Fee for the subsequent phase(s) of the development.
  - c) The Parkland lot shall have a minimum lot width and street frontage of 30-feet. When practicable, the Parkland lot shall be a multi-frontage lot.
  - d) The Parkland Lot shall provide on-site parking or be located along a street where on-street parking may be accommodated on both sides of the street.
  - e) A minimum of fifty percent (50%) of the Parkland lot shall not exceed a twenty percent (20%) grade. A slope analysis exhibit shall be provided to the City Engineer.
  - f) Areas within the FEMA or calculated 100-year floodplain may be dedicated in partial fulfillment of the dedication requirement not to exceed fifty percent (50%). When area within the floodplain is proposed to be dedicated, a minimum of two acres of land, and the frontage of the property where it is accessed from public right-of-way shall not be located within the FEMA or calculated 100-year floodplain.

- g) Parkland lots with the following conditions shall not be accepted unless recommended by the Parks and Recreation Commission, and approved by City Council:
  - i. The lot is primarily accessed by a cul-de-sac.
  - ii. The lot is hindered by utility easements or similar encumbrances that make development of the land unfeasible. This limitation does not apply to land encumbered solely by public utility easements required by the subdivision ordinance.
  - iii. The lot is encumbered by sensitive environmental species or habitat areas.
  - iv. The lot contains stormwater facilities. Where stormwater facilities are proposed, stormwater facilities must be designed as a park amenity, to include trails, benches, and opportunity for recreation.
- h) A minimum of two-inch water service line and six-inch gravity wastewater service line shall be provided at one of the property lines in a location approved by the City Engineer. This provision can be waived if water/wastewater is not within a reasonable distance from the property, as determined by the City Engineer.
- i) Sidewalks and trails shall be provided along all street frontages, and trails shall be provided in accordance with the Master Trails Plan, as well as all criteria found in the City's Subdivision Ordinance or other City Ordinances. Sidewalks required by other City Ordinance such as at the time of platting or site development, will not be counted towards the required parkland dedication. Trails may be considered as part of required parkland dedication.

2) Alternative Site and Development Standards.

- a) Alternative design standards for Public Parkland may be proposed and submitted to the Planning & Development Department, provided the intent of the requirements of this Section are met.
- b) Prior to submitting an application for development where alternative site and development standards are requested, the applicant shall complete the following:
  - i. Provide a letter to the Planning & Development Department that details the alternative design for Parkland dedication and why it is equal to or better than the minimum standards; and
  - ii. Conduct a site visit with the Planning & Development Department or their designee to review the proposal.
- c) The Planning & Development Department shall review the alternative design based on Section 28.03.007, Dedication of Public Parkland Requirement, and Section 28.03.008, Criteria for Dedication, and present the alternative design to the Parks and Recreation Commission for recommendation to City Council for final approval.
  - i. The Parks and Recreation Commission shall recommend approval, approval with conditions, or disapproval of the request.

- ii. The City Council shall approve, approve with conditions, or disapprove of such requests.

#### **Sec. 28.03.009            Amendments.**

Any increase in density or modification to an approved parkland dedication plan and/or subdivision, or a modification that would have otherwise required more parkland to be dedication, shall be required to dedicate additional parkland in accordance with this Ordinance, pay fee-in-lieu, or apply for Alternative Site and Development Standards as if it were a new application. If a property owner is requesting to modify an approved parkland dedication plan, they shall submit a new application with the requested changes, an explanation regarding the reason for the change, and the proposed new plan, subject to review and decision by the appropriate board, depending on whether the amendment is considered minor or major, as defined in this section.

- 1) Minor Amendment. A minor amendment is any change that would increase/decrease the approved parkland acreage by 5-percent of the overall required parkland acreage. Minor amendments are subject to review and final decision by the Parks and Recreation Commission.
- 2) Major Amendment. A major amendment is any change that would increase/decrease the approved parkland acreage by more than 5-percent of the overall required parkland acreage. Major amendments are subject to review and decision by the Parks and Recreation Commission, and approval by City Council.

#### **Sec. 28.03.010            Park Development Fee.**

- 1) In addition to the dedication of Public Parkland or fee-in-lieu, a developer shall pay a Park Development Fee to meet the need for the active recreation parks. According to the city's Parks, Recreation, and Open Space Master Plan, the city has two (2) community parks, which are servicing the entire population as described in 28.03.006. The Park Development Fee is meant to provide active recreation parks and sports field options, and/or provide trails that connect park users to the existing community parks.
- 2) The amount for the Park Development Fee shall be in accordance with the adopted fee schedule and based on the analysis as explained in the Methodology in Section 28.03.006.

#### **Sec. 28.03.011            Fee-in-Lieu of Dedication**

- 1) When the city deems existing parkland to be of an insufficient quantity (in the park service area in which the development is located), or unacceptable, unavailable, or unsuitable based on the standards established by this article for park purposes, and subject to review by the City Council, fee-in-lieu of land shall be paid into the "park fund" established by the city. Such money shall be paid in accordance with the Methodology in Section 28.03.006, as well as the criteria of this ordinance.
- 2) The value of the parkland shall be calculated as the average estimated fair market value per acre of the land being subdivided within twenty (24) months of application for plat or site development at the time of preliminary plat approval. The appraisal shall be performed by

a State of Texas certified real estate appraiser, mutually agreed upon by the City and the Applicant and paid for by the Applicant.

- a) If the city deems it acceptable based on the circumstances, the Applicant may dedicate, or designate parkland acreage combined with cash. The cash contributions shall be paid at or prior to the final plat or site plan approval, whichever is most applicable to the project.
- b) Whether the city approves parkland dedication or elects to require fee-in-lieu thereof when the parkland dedication does not meet the requirements of this Article, or a combination of both acceptance of parkland dedication and fee-in-lieu, shall be determined by consideration of the following:
  - i. The natural features, access, and location of land in the subdivision available for dedication;
  - ii. The size and shape of the subdivision and land available for dedication;
  - iii. The compatibility of the parkland dedication with the city's Parks Recreation, and Open Space Master Park Plan; and
  - iv. The location of existing and proposed park sites, trails and greenways.
- c) If the Applicant pays fee-in-lieu for parkland dedication and complies with this ordinance with no dedication of parkland, the fee-in-lieu can be reviewed and approved by the City Administrator without review of the Parks and Recreation Commission. If any parkland is dedicated or the fee-in-lieu proposed is less than what is required, then the Application shall be reviewed in accordance with this ordinance.

**Sec. 28.03.012            Credit for Private Parks.**

- 1) Where privately-owned and maintained parks or other recreation facilities with non-exclusive private amenities are proposed, the City Administrator, after recommendation from the Parks and Recreation Commission, and approval from City Council, may grant a credit up to twenty-five percent (25%) of the required Public Parkland dedication amount and/or fee-in-lieu. The credit is not applicable to the Park Development Fee.
- 2) Privately-owned and maintained parks or other recreational facilities shall meet the following minimum standards:
  - a) The park or recreational facility shall have a minimum lot area of two acres.
  - b) The park or recreational facility shall include the minimum number and type of facilities outlined in 28.03.010.
  - c) The park or recreational facility shall comply with the Parks, Recreation, and Open Space Master Plan, and other applicable City regulations.

- 3) Privately-owned and maintained parks or other recreational facilities for a single-family, two-family, townhome, or detached multi-family shall be identified on the Subdivision Plat as a private open space lot.
- 4) Privately-owned and maintained parks or other recreational facilities shall be owned and managed by a mandatory Homeowners Association (HOA) or Property Owners Association (POA), or similar permanent entity, and subject to restrictive covenants that state the following:
  - a) The land shall be utilized for Parkland or open space in perpetuity.
  - b) Each property owner within the subdivision encumbered by the restrictive covenants shall be required to pay dues and/or special assessments for the maintenance of the private park or recreation facility.
  - c) If the responsible agency dissolves, cannot fulfill its obligations or elects to sell, transfer, or otherwise divest itself of the land, the City shall have the right of first refusal on acquiring the property. If the City elects to acquire the land, said land shall be transferred at no cost to the City and in accordance with the City's regulations on Dedicating Parkland.
  - d) The cessation of the privately-owned and maintained park or other recreational facility shall be prohibited until such time as the declarant cedes control of the responsible agency to purchasers of properties within the subdivision, and then only upon amendment to the restrictive covenants approved by three-fourths of the members of the responsible agency.

**Sec. 28.03.013                      Method of Dedicating Parkland**

- 1) Land to be dedicated for Public Parkland shall be identified on the Preliminary Plat; Final Plat; Subdivision Construction Plans; and Site Plan, when applicable. When construction of park improvements and/or private parks is proposed, all amenities shall be identified on the Subdivision Construction Plans or Site Plan, as applicable. Fiscal surety is the amount equal to the Park Improvement Fee shall be provided prior to approval of Subdivision Construction Plans or Site Development Plan, as applicable, for the park improvements on Public Parkland.
- 2) Prior to acceptance of the Public Parkland, the following conditions shall be met:
  - a) Land shall be in good condition, including the removal of all debris and dead plant materials, and utility services, sidewalks, and other public improvements installed. Any land disturbed by activities not related to park development shall be restored and the soil stabilized in a method approved by the City Engineer in accordance with the requirements of this Code.
  - b) Park Development Fee shall be paid.
- 3) Prior to recordation of the Final Plat, the following conditions shall be met:
  - a) Land accepted for dedication under the requirements of this Section shall be conveyed by warranty deed, transferring the property in fee simple to the City of

Dripping Springs, Texas, and shall be free and clear of any mortgages or liens at the time of such conveyance.

- b) A copy of the warranty deed and other Parkland dedication documents, as outlined in the City's Code of Ordinances, shall be provided to the Planning & Development Department prior to plat submittal.
- c) If property is accepted, the warranty deed shall be provided to the City Council for acceptance.

#### **Sec. 28.03.014          Park Funds**

- 1) **Parkland Dedication Fund:** For funds received for fee-in-lieu of parkland dedication, a separate fund entitled "Park Fund" has been created to hold in trust money paid to be used solely and exclusively for the purpose of acquiring and/or improving public parks, trails, and recreational lands, and shall not be used for maintaining or operating park facilities or for any other purpose.
- 2) **Park Development Fee Fund:** The funds received as Park Development Fees, the funds shall be expended on park maintenance, operation, acquisition, or improvements to park facilities.
- 3) The City Council, based upon recommendation of the Parks and Recreation Commission, shall determine whether there are sufficient funds to acquire public Parkland and/or construct improvements. In making a determination for the acquisition of land, the conditions outlined in 28.03.007 shall be taken into consideration.

#### **Sec. 28.03.015          Land Dedication for Park Trails**

Land dedication of park trail corridors within parks shall be a high priority, in accordance with the most recently adopted Parks, Recreation, and Open Space Master Plan, the City's adopted trails plan, and the Transportation Master Plan, as may be amended. Applicants are responsible for preserving the natural character of the trail corridors and dedicating the required right-of-way. Right-of-way dedication or easement size may vary due to the site's physical characteristics.

A partial reduction or complete fee waiver in the amount of the Park Development Fee may be considered by City Council, if the applicant proposes a plan to construct public park trails that will connect to the City-Wide Trails System in order to unite neighborhoods to all parks within the City and the ETJ to facilitate options for park access. If the park trail or any portion of the park trail is within areas shown on the City-Wide Trails Plan, the Applicant may be required to construct park trails or other park amenities and may choose to waive a portion of the required fee at the City's sole discretion. Information specific to the City-Wide Trails Plan can be found in the adopted City of Dripping Springs City-wide Trails Plan. Prior to City Council considering this proposal, the applicant shall provide a cost estimate, subject to approval by the by the City Engineer, prior to being placed on a Parks and Recreation Commission agenda for recommendation, and City Council for final action.



**Sec. 28.03.016            Agricultural Facility Fee**

- 1) Use of fee.
  - a) The Ag Facility Fee imposed pursuant to the provisions of this article is limited to funding the acquisition, development, improvement and/or maintenance of community agricultural facilities as identified in the city's general plan as adopted by the city council and as may be amended from time to time. The city is authorized to make appropriations to one or more city funds to pay for agricultural facilities owned and operated by the city or a designated entity pursuant to an interlocal agreement.
- 2) Payment of fee or land dedication required.
  - a) An applicant who subdivides or plats land under the city's subdivision ordinance (excluding replats that do not increase the subdivision's Dwelling Units by five (5) or more, or plat amendments), as may be amended, shall provide for community agricultural facilities by one or a combination of more than one of the following means:
    - i. Payment to the city of an Ag facility fee in accordance with the schedule of fees adopted by city council.
    - ii. Dedication of real property (in fee simple or through a perpetual public surface easement) to the city or an entity designated by the city for Ag facility related purposes.
- 3) Dedication and/or improvement in lieu of fee. In lieu of payment of all or a portion of the Ag facility fee or land dedication described in this section, the following may be accepted by the City Council:
  - a) Dedication of improvements. In lieu of payment of all or a portion of the Ag facility fee, improvements to an existing agricultural facility may be dedicated to the city for recreational purposes. Whenever a developer determines to dedicate improvements in lieu of payment of the Ag facility fee, a written application shall be made to the city administrator describing the improvements to be made to receive credit for the local Ag facility fee. The city administrator shall prepare a report to the City Council regarding the proposed dedication of improvements.
  - b) Report to City Council. The report to the city council from the city administrator shall indicate whether the following requirements have been met and shall make a recommendation regarding the proposed dedication of improvements:
    - i. The improvements to be dedicated are for a community agriculture facility identified in the city's general plan.
    - ii. The improvements to be dedicated are valued at the same or more than the Ag facility fee or portion thereof which would otherwise be imposed on the development.
- 4) Time of Payment. Fees required by this section shall be paid prior to approval of the final plat.

5) Exemptions. The following are exempt from the application of this section:

- a) Applicants developing subdivisions that allow residents to keep livestock and farm animals on individually owned, single-family residential lots in the subdivision.
- b) Applicants developing subdivisions that include agricultural facilities located in the subdivision that shall be available to residents of the subdivision.
- c) Applicants developing subdivisions that are for solely nonresidential uses.
- d) Applicants that are city, county, state or federal government agencies.

Appeals. Any person aggrieved by the computation of fees pursuant to this section shall have the right to appeal to the City Council. The appeal shall be taken not later than thirty (30) days from the date the person is informed of the computation of the fees under this section. Failure to appeal within the thirty-day period shall be deemed a waiver of all rights of appeal under this section.