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CITY OF DRIPPING SPRINGS

ORDINANCE No. _____

PARKLAND DEDICATION AND PARK DEVELOPMENT ORDINANCE

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; 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, 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,

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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 and community 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 _____, 2020 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 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

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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 ___ day of _____, 2020, by a vote of ___ (*ayes*) to ___ (*nays*) to ___ (*abstentions*) of the City Council of the City of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____

Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary

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ATTACHMENT "A"

DRAFT

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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 this 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

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(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) **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.
- 3) **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 Appendix I of this article.
- 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) **Community Parks.** Active program elements such as ball fields and larger community-based recreation needs are served by the Community Park classification. Typically, these parks range from 30-100-acres in size and have a two-mile level of service area.
- 6) **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”.
- 7) **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.
- 8) **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.
- 9) **ETJ.** The extraterritorial jurisdiction of the City.
- 10) **General Parks Plan.** Statement of the suitability of the parkland in meeting the criteria for parks is outlined in this ordinance and a detailed description of any proposed improvements shall be in accordance with Appendix II, Park Improvement Standards.

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- 11) **Neighborhood Park.** As the basic unit of the City's park system, neighborhood parks serve residents in a ¼ to ½ mile area. Typically, there is little if any parking and roadway infrastructure at the park and the focus tends to be on informal activities and servicing passive recreational needs.
- 12) **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.
- 13) **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.
- 14) **Parkland.** Platted tract of land designated and used for recreation or open space.
- 15) **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.
- 16) **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.
- 17) **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. A map of park service areas is found in Appendix II, Park Improvement Standards.
- 18) **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.
- 19) **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.
- 20) **Special Use Park.** The special use park covers a variety of park and recreational facilities oriented toward a single-purpose use. The location and size depend upon the

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type of special use facility. Examples of such recreational space would include nature parks, athletic complexes, amphitheater, equestrian facilities, etc.

- 21) **Sports Park.** Community use facility that consolidates heavily programmed athletic fields and associated facilities and is strategically located to serve a large community. Sports park amenities may also be found in community parks on a smaller scale.

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 and commercial 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 of 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 ¼ to ½ mile distance from all areas it serves and uninterrupted by non-residential roads and other difficult barriers.
- 3) Community parks typically serve an area within a two-mile radius and 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) *Appendices Supplementary information is incorporated into this Article which provides the parkland dedication, parkland development or cash-in-lieu fees, and park development guidelines and requirements. The appendices consist of:*

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- a) Appendix I Schedule of Required Parkland Dedication and Development Fees.
- b) Appendix II Park Improvements Standards based on the most current Parks, Recreation, and Open Space Master Plan as may be amended from time to time. The Plan identifies typical neighborhood and community park facilities and includes the average costs associated with each type of facility. These parks are to be financed in whole or in part through the imposition of development fees pursuant to this article. This Appendix may be updated from time to time by the City Administrator in consultation with the Parks and Recreation Director.
- c) Appendix III Park Facility Equipment Standards which provide guidance to the Applicant on the size, type, and number of elements required; and, examples of equipment brands which exhibit quality materials that are durable, reliable and will minimize the cost of maintenance for the park. Elements placed in parks shall be of equal or greater quality than equipment brands cited as examples. Amenity specifications proposed by Applicant may be compared to examples as a control measure if necessary. This Appendix may be updated from time to time by the City Administrator in consultation with the Parks and Recreation Director.

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.
- 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 5 or more.
- 3) Historic District. Properties located within the Historic District are exempt from parkland dedication requirement, unless more than 25 dwelling units are proposed.

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 cash-in-lieu of land dedication allowable. The City, at its option, may reduce the required land dedication and cash-in-lieu of payment if other opportunities are deemed worthy and suitable for parks or trails in accordance with the Parks, Recreation, and Open Space Master Plan.

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- b) The methodology used to calculate fees and land dedications is attached hereto as Appendix I and incorporated and made a part of this Article for all purposes. Fees paid under this Section may be used only for development, acquisition or maintenance of a park or trail located within the same park service area as the development, or for facilities that will provide parks and recreation services to the development as stated elsewhere in this Article.
- c) The payment of fee-in-lieu of land dedication shall be met by the payment of a fee set from time to time by city ordinance sufficient to acquire neighborhood parkland or community parkland. Unless and until changed by city ordinance, the cash payment shall be computed on the basis of a fee per dwelling unit (DU) within the proposed development.

Sec. 28.03.007 Dedication of Public Parkland Required.

(a) Residential Dedication Requirements.

- 1) 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 5 dwelling units, shall provide for the dedication or designation of land suitable for parkland and recreation purposes.
- 2) Land dedicated as a requirement of this ordinance shall be suitable for parkland and recreation purposes.
- 3) The minimum acreage of Public Parkland required shall be as follows:
 - a) One (1) acre for each **29 dwelling units**, or fraction thereof.
 - b) Residential subdivisions with fewer than 29 dwelling units shall dedicate five percent (5%) of overall acreage of the property to be subdivided as public parkland.
- 4) The land to be dedicated shall form a single lot with a minimum of one (1) acre required.
- 5) 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 City Administrator may approve the parkland dedication if the City Administrator finds that it meets the intent of the code, and the lots have access from a public right-of-way.
 - b) A developer shall make a financial contribution in lieu of dedication of Public Parkland when:
 - i. No portion of the tract of land is located within the City limits; or
 - ii. Less than ½ an acre of land would be required to satisfy the Parkland dedication requirements.

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- 6) The rate required for the financial contribution shall be in accordance with the adopted fee schedule. 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 lots 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 35-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 does not include required 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

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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.

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 approve, approve with conditions, or disapprove the request.

Sec. 28.03.009 Amendments

Any increase in density or a modification to an existing subdivision that would have otherwise required more parkland to be dedicated, 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.

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 ensure that the Public Parkland will be sufficiently developed for park use.
- 2) *The amount for the Park Development Fee shall be in accordance with the adopted fee schedule and based on the analysis provided for in Appendix I for Active Use Parks.*

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3) Alternative Standards.

- a) When two or more acres of land are proposed to satisfy the Parkland dedication requirements, the City Administrator may consider a proposal from an applicant to construct park improvements on Public Parkland in lieu of paying, in whole or in part, the Park Development Fee.
- b) Park improvements shall include the minimum number of facilities listed in the table below:

Parkland Acreage	Minimum Number of Facilities
2 or less	4
3-6	5
6-9	6
9 or more	7

- i. Park improvement facilities shall be selected from those listed below:
 - a. Age appropriate playground equipment with adequate safety surfacing around the playground.
 - b. Practice fields for baseball, softball, soccer, and football.
 - c. Tennis courts.
 - d. Multi-purpose courts for basketball, volleyball, or other sports.
 - e. Improved multiuse green space.
 - f. Picnic areas with benches, picnic tables, and cooking grills.
 - g. Shaded pavilions and gazebos.
 - h. Jogging and exercise trails.
- i. Other facilities approved by the City Administrator.
- ii. When construction of park improvements are proposed, all park improvements shall comply with the Parks, Recreation, & Open Space Master Plan, as well as all applicable regulations, city codes, and the Americans with Disabilities Act as applicable.

Sec. 28.03.011 Fee-in-Lieu of Dedication

- 1) When the city deems existing parkland to be of a sufficient quantity (in the park service area in which the development is located), 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 City’s adopted fee schedule.

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- 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 Developer/Owner 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, or a combination of both, 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 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.

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 and 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 28.03.007.
 - 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-subdivision 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

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Association (POA), or similar permanent agency, 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. 28.03.0123 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 (if 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) Parkland Development Fee shall be paid. When construction of improvements on the Public Parkland is approved, park improvements shall be constructed and accepted by the City at the time of acceptance of all other public improvements, when required, or final site inspection.
- 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.

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- 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.

Sec. 28.03.014 Park Fund

- 1) 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 purchasing and/or improving public parks and recreational lands, and shall not be used for maintaining or operating park facilities or for any other purpose.
- 2) Where financial contribution is received in lieu of land dedication, the financial contribution and Park Development Fee shall be expended on park maintenance 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 28.03.006 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 and the City-Wide Trails System. 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.

In lieu of payment of the park improvements fee, the City Council may approve a plan from the Applicant 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 in the City-Wide Trails Plan as land to meet strategic needs for future parks and/or park trails, the Applicant may be required to construct park trails or other park amenities in lieu of payment of the park improvements 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.

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.

Areas of this ordinance have been highlighted in red to indicate that these are areas of the code that could potentially change based on Census data.

- 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 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.

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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.

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