



**CITY OF NOLANVILLE
STATE OF TEXAS**

ORDINANCE NO. Z 17-02

PARKLAND DEDICATIONS

AN ORDINANCE OF THE CITY OF NOLANVILLE, TEXAS ESTABLISHING REQUIREMENTS AND PROCEDURES REGARDING PARKLAND DEDICATIONS TO THE CITY, OR CASH-IN-LIEU-OF DEDICATION, BY RESIDENTIAL DEVELOPERS; AND PROVIDING FOR THE FOLLOWING: ENACTMENTS; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE & HEARING.

WHEREAS, the City Council of the City of Nolanville (“City Council”) seeks to promote orderly, safe and reasonable development of land within the city limits and extraterritorial jurisdiction (“ETJ”); and

WHEREAS, the City Council seeks to establish procedures when considering options regarding the dedication of parkland or cash-in-lieu of parkland; and

WHEREAS, the City Council will consider the location, accessibility, and character of potential parkland; and

WHEREAS, the City Council supports the right of private property owners and advocates clarity, predictability and efficiency in the City’s regulatory program; and

WHEREAS, generally, the right to develop property is subject to intervening regulations or regulatory changes; 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 Section 331.001, the City Council has the authority to acquire parks; and

WHEREAS, pursuant to Texas Local Government Code Section 212.002, the City Council has the authority to establish rules governing plats and subdivisions of land after a public hearing on the matter, the governing body of a municipality may adopt rules

governing plats and subdivisions of land within the territory subject to the municipality's subdivision jurisdiction; and
WHEREAS, a public hearing has been conducted; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Nolanville to adopt an ordinance establishing a framework within which property owners and the City can determine how best to Status under certain regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOLANVILLE, TEXAS:

SECTION 1: ENACTMENT PROVISIONS

A: PURPOSE

The requirements for park and recreational areas (“parkland”) contained in this section are intended to ensure that in, or within reasonable proximity to, new residential development in the City of Nolanville and its ETJ, there will be sufficient land dedicated to meet the demand and need of the future residents of such development for parks, containing passive or active recreational areas and amenities that are reasonably attributable to such development. In determining the size of the parcel that should be dedicated in this Section, the City Council has taken into consideration the projected growth in population and development within the City and its ETJ.

B: APPLICABILITY OF PROVISIONS

Acceptance of public improvements shall not be issued for any residential subdivision or development subsequent to the passage of this Section, unless parklands shall have been dedicated for such development, or cash shall have been paid in-lieu-of such dedication in accordance with the standards and criteria in this Section.

C: CHARACTER AND MINIMUM DEDICATION

- (1) Land dedicated for parkland shall be of such size, dimensions, topography and general character as is reasonably required by the City for the type of use necessary to meet the demand and need of future residents (e.g., multipurpose trail, open surface buffer, active recreation for team or individual sports, playground, picnic area, etc.). Land within floodplain and floodway designated areas may be counted toward meeting the requirement of this section with the approval of the City Council, pursuant to such conditions and caveats as it may deem necessary.
- (2) Unique or other natural areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the City to be included in the calculated areas dedicated for park and recreational purpose.
- (3) Land dedication must be open for public use in a way similar to other City park land in order to meet minimum dedication criteria.

- (4) The minimum amount of parkland that shall be dedicated pursuant to this Section shall be one acre per 133 dwelling units. Where less than five acres of parkland dedication is being proposed, City Council, upon recommendation of the Planning and Zoning Commission, may accept dedication or require payment of cash in lieu of land dedication in the amount specified per dwelling unity in the City Fee Schedule, or a combination of dedication and cash, as the City Council may see fit.
- (5) All dedications of lands must be in a single parcel, except when the City Council's finds that it is not feasible. No land dedicated in compliance with this division shall have dimensions smaller than 150 feet in width and 200 feet in depth. In any development that includes wooded areas, tree preservation, or other natural features that are desirable to maintain, the City Council may grant an exception from the strict application of these minimum dimensions, whenever it determines that by doing so the protection and preservation of such areas will be promoted.
- (6) *Trail standards.* Any trail constructed within public open space or parkland, and trails providing access to such areas, including on private spaces, shall conform to the following standards:
 - (a) *General.* Unless specified otherwise, all such trails shall be constructed of concrete and shall conform to the requirements of the Americans with Disabilities Act, as may be amended.
 - (b) *Multipurpose trails.* Trails designated as multipurpose trails in the parks and trails plan shall be a minimum of six feet in width.
 - (c) *Access walkways.* All access walkways linking to the multipurpose trail network shown in the parks and trails plan shall be a minimum of four feet in width.

D: PLATTING REQUIREMENTS FOR DEDICATED PARKLAND

Any land dedicated for parkland shall be shown on the face of a development plan submitted for approval by the Planning and Zoning Commission and City Council. Simultaneously with the filing of the development plan, the land proposed to be dedicated shall be submitted by the developer or owner to the City Manager or designee for recommendation to the Planning and Zoning Commission and the City Council. Upon approval, the recorded plat shall be filed with the County.

E: PAYMENT OF CASH-IN-LIEU-OF DEDICATION

Payment of cash-in-lieu-of dedication of land for park and recreational purposes shall be subject to the following provisions:

- (1) *Applicability.* Unless otherwise recommended by the City Manager or designee, in all cases in which the City Council determines, upon recommendation of the City Manager or designee, that the park and recreational needs of a proposed development would be better served by a park in a different location or the expansion or improvement of an existing park or recreational area, or other need, the developer or subdivider shall pay to the City a sum of money per dwelling unit in accordance with the City Fee Schedule, or a combination of dedication and cash, as the City Council may see fit.

- (2) *Limitations on expending fees:* Fees collected for payment of cash-in-lieu of dedication must be expended within five years from the date they were received, except when residential units in the subdivision have been constructed in less than 50% of the lots, in which case they must be expended no later than one year after residential units in the subdivision have been constructed in at least 50% of the lots.
- (3) *Credit for park improvements.* At the discretion of the City Council, upon recommendation of the City Manager or designee, the developer or subdivider may be authorized to substitute actual construction receipts for approved improvements to park land or facilities for all or a portion of the required in-lieu-of fee. Such improvements may include, but are not limited to, extensions of the City's trail network, trail linkages and playground equipment, as approved by the City Manager or designee in conformance with departmental park standards. No credit shall be given for improvements required to be made pursuant to Section 1. F. below (criteria for City's acceptance of parkland) or for extensions of the primary trail.
- (4) *Timing of payment:* Such payment shall be made prior to the acceptance of public improvements by the City. If no public improvements are required, such payment shall be made prior to filing the record plat.
- (5) *Notation of agreement.* Such agreement to make a payment of cash-in-lieu-of parkland dedication shall be clearly noted on the face of the plat at the time of submission to the City for action by the Planning and Zoning Commission and City Council.
- (6) *Accounting and expenditure of funds.* All payments of cash-in-lieu-of parkland dedication shall be segregated in a separate fund to be spent only for the acquisition and improvements of parkland within the City that meet the needs of the residents of the development or subdivision in respect to which such payment was made.
- (7) *City's Discretion.* The City Manager may negotiate with applicant for City to receive some other proper incentive as opposed to cash-in-lieu-of parkland dedication (e.g., street access as opposed to land), and the City Council may approve such incentive upon City Manager's recommendation.

F: CRITERIA FOR CITY'S ACCEPTANCE OF PARKLAND

Prior to the City accepting any parkland that is required to be dedicated pursuant to this Section, the developer or applicant shall meet with the City Manager or designee to ensure compliance with the following requirements:

- (1) The owner and/or developer shall agree that no construction materials be disposed of or deposited within the parkland by its contractors, subcontractors, employees or agents at any time while the subdivision is being built. If materials are deposited or disposed of within the parkland, the owner and/or developer will be required to remove these materials within 72 hours of written notice by the City.
- (2) The developer shall clear and grade the land as approved by City; remove all trash, dead trees and other non-useable material; and spray parkland with an approved herbicide to eliminate dangerous and undesirable plant materials, such as briars, poison ivy, bull nettles and similar undesirable plant materials; the developer shall establish permanent grass by the appropriate methods dependent on the season; should the planting of rye grass be

- necessary during the winter months, the developer shall pay to the City an amount equal to the cost of permanent grass seed to be planted at the proper time as determined by the City.
- (3) The developer shall provide for adequate drainage through the proposed park to eliminate standing water and health hazards.
 - (4) A water main and any other utilities deemed appropriate by the City shall be stubbed to the park area of a size and location specified by the director of parks and recreation or designee to provide for future utility needs of the park; however, the City may in its discretion negotiate with the developer or applicant for an incentive in-lieu-of the above stubbing requirement.
 - (5) Proper vehicle access, as determined by City Manager, shall be provided to enable tractors, trucks, and other similar vehicles to enter the park.
 - (6) Sidewalks shall be constructed adjacent to or on parkland to provide contiguous walkways on all sides of the adjoining development, unless this requirement is waived by the City.
 - (7) A metes and bounds description of the subject property typewritten on an 8 ½ inch by 11-inch sheet of paper shall be provided by the applicant with the submitted application.
 - (8) Note: exceptions to the criteria contained in this Section may be waived or modified by the City Council after review and recommendation by the Planning and Zoning Commission.

SECTION 2: REPEALER

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, including but not limited to Ordinance No. 2012-03-15 # 7044, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

SECTION 3: 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.

SECTION 4: EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

SECTION 5: 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.

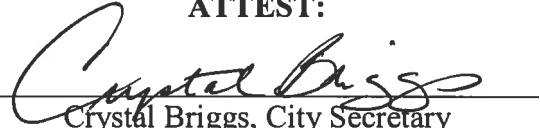
PASSED AND APPROVED this 2nd day of February, 2017, by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of the City of Nolanville, Texas.

CITY OF NOLANVILLE, TEXAS:

By:


Christina Rosenthal, Mayor

ATTEST:


Crystal Briggs, City Secretary