

ORDINANCE NO. 2069

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE CITY'S SUBDIVISION REGULATIONS AS ADOPTED BY ORDINANCE 1982 AND CODIFIED IN CHAPTER 28 OF THE LIVINGSTON MUNICIPAL CODE, BY MODIFYING THE PARKLAND DEDICATION REQUIREMENTS. .

WHEREAS, 76-3-621 MCA establishes the requirements for the dedication of parkland or cash- in-lieu thereof in subdivisions; and

WHEREAS, the City Commission believes that clarifying the acceptable types of and standards for parkland dedication is in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, that Ordinance 1982, as codified in Chapter 28 of the Livingston Municipal Code, be and the same is hereby amended with deletion struck through and additions shaded, as follows:

SECTION 1

Section VI-A-16 Parkland Dedication – Cash in-lieu- Waivers- Administration

Section VI-A-16. a. - Unchanged

Sec. VI-A-16. b. – Standards for parkland dedication.

1. Parks and Open Space Types and Standards: Parks, open space, and common area dedication shall meet at least one of the following criteria:
 - a. Provides for the preservation of a physical amenity such as a meadow, a stand of trees, significant wildlife habitat or a wildlife corridor, a scenic hillside with slopes less than 25%, a stream or significant water body, an area of riparian resource or some other natural feature that the governing body determines is significant enough for parkland dedication. Open space shall be managed to remain in a near natural state when it has been dedicated for preservation or conservation purposes, and managed for weeds and public safety concerns such as wild

- land fire and hazard trees. Public trail connections are permitted if deemed appropriate by the governing body; or
- b. Provides a site for active recreation and public gathering (neighborhood park), which shall substantially conform to the following standards:
 - i. Five acres or greater in size unless the opportunity for this size is not feasible or required;
 - ii. Centrally located within the proposed subdivision or adjacent to other planned or existing park or open space;
 - iii. Adjacent to public streets on at least 50% of the park's perimeter;
 - iv. Accessible to bicycle and pedestrian trails where possible; and
 - v. At least 50% of the park shall have 2% or less slope to accommodate playing fields; or
 - c. Establishes a pedestrian/bicycle greenway corridor if such corridor is determined by the Parks Department to have a primarily recreational and/or commuter function; or
 - d. Creates a courtyard of less than ½ acre, provided the courtyard shall be part of a common area dedicated to a private homeowner's association; or
 - e. Provides for other parks, open space, or common area designs which meet the intent of this section and meet the goals of the City Growth Policy and other applicable area plans.
2. Unless the governing body determines otherwise, the following areas within a subdivision will not count toward the parkland dedication:
 - a. Hillsides over 25% slope;
 - b. Areas of riparian resource and adjacent buffers associated with irrigation or roadside ditches;
 - c. Monument entry areas and central landscaped boulevards;
 - d. Storm water retention or detention ponds that are designed to hold storm water runoff from less than 100 year events;
 - e. Public utility easement.
 3. Provide as part of the required parkland, twenty (20) foot wide, pedestrian access easement to parkland or common area from public streets. Pedestrian access easements on hillsides may require additional width to accommodate switchbacks for trails, etc. Setbacks for structures other than fences adjacent to the access easement shall be a minimum of ten (10) feet. The governing body may require that the developer construct a trail leading into the park or common area.

Section VI-A-16 b. thru f. – Re-letter to c. thru g.

Section VI-A-16 g- h.

For the purposes of this park dedication requirement:

- a. "cash donation" means the fair market value of the unsubdivided, unimproved land
- b. Fair market value must be determined by a Montana State certified general real estate appraiser (as provided under MCA 37-54-201 et seq) hired and paid for by the subdivider. For the purposes of this regulation, appraisals are valid if prepared within six (6) months of the date of submittal of an application for final subdivision approval.
- c. "dwelling unit" means a residential structure in which a person or persons reside.

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights and duties that matured, penalties and assessments that were incurred or proceedings that began before the effective date of this ordinance.

SECTION 5

Effective Date:

This ordinance will become effective 30 days after second and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading on the 17th day of April, 2018.



DOREL HOGLUND – Chairperson

ATTEST:



LISA HARRELD
Recording Secretary

APPROVED AS TO FORM:



JAY PORTEEN
Livingston City Attorney

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 1st day of May, 2018.



DOREL HOGLUND - Chairperson

ATTEST:



LISA HARRELD
Recording Secretary

APPROVED AS TO FORM:



JAY PORTEEN
Livingston City Attorney

NOTICE

The public is invited to attend and comment at a public hearing to be held on May 1, 2018, at 6:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on the second reading of **ORDINANCE NO. 2069** entitled **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE CITY'S SUBDIVISION REGULATIONS AS ADOPTED BY ORDINANCE 1982 AND CODIFIED IN CHAPTER 28 OF THE LIVINGSTON MUNICIPAL CODE, BY MODIFYING THE PARKLAND DEDICATION REQUIREMENTS**. A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call the City Attorney at (406)823-6007.

(Notice must be published twice at least 6 days apart. (7-1-4127(6) and posted on the City Bulletin Board, and copies available for the public (7-5-103 MCA).

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