

ORDINANCE NO. 972

AN ORDINANCE OF THE CITY OF LANSING, KANSAS, AMENDING THE SUBDIVISION REGULATIONS AS ADOPTED BY REFERENCE IN LANSING CITY CODE, SECTION 17-201; FURTHER AMENDING ARTICLES 4 AND 5.

WHEREAS, the Planning Commission of the city of Lansing has recommended to amend the adopted Subdivision Regulations, Article 4, Submission of Plats; and Article 5, Park Land Acquisition and Dedication. The official Subdivision Regulations are adopted by reference in Lansing City Code, Section 17-201; and,

WHEREAS, after proper legal publication and notice pursuant to the statutes of the State of Kansas, a public hearing was held by the Planning Commission on August 17, 2016, at 7:00 p.m. at the Lansing City Hall, Lansing, Kansas.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LANSING, KANSAS:

SECTION 1. Lansing Subdivision Regulations, Article 4, Submission of Plats, is hereby amended pursuant to Exhibit A of this ordinance.

SECTION 2. Lansing Subdivision Regulations, Article 5, Park Land Acquisition and Dedication, is hereby amended pursuant to Exhibit B of this ordinance.

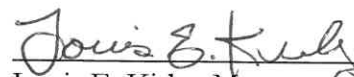
SECTION 3. SEVERABILITY. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by a court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect from and after its passage, approval, and publication by summary in the official city newspaper.

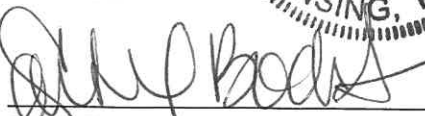
PASSED AND APPROVED by the governing body of the city of Lansing, Kansas, this 1st day of September, 2016.

{SEAL}

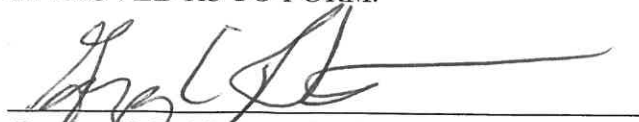



Louis E. Kirby, Mayor

ATTEST


Sarah Bodensteiner, City Clerk

APPROVED AS TO FORM:


Gregory C. Robinson, City Attorney

Published: *The Leavenworth Times*

Date Published : 9-6-16

Exhibit A – Ordinance No. 972

(3) FINAL PLAT:

(A) Submission:

- (1) After approval of the preliminary plat, and no sooner than the following day after the preliminary is approved by the Planning Commission, the applicant may submit a final plat for consideration at the next scheduled Planning Commission meeting.

Subdivision Regulation Amendments – Article 5, Park Land

ARTICLE 5. PARK LAND ACQUISITION AND DEDICATION

1. SCOPE:

The provisions of this article shall apply to all new development within the city of Lansing.

2. EXEMPTIONS:

The provisions of these regulations shall not apply to the following:

- (A) Residential, commercial, or industrial development for property to be located on a lot of record, or vested final plat, which was approved prior to the effective date of these regulations.
- (B) Residential, commercial, or industrial development constructed or to be constructed in accordance with a building permit issued prior to the effective date of these regulations.

3. DEFINITIONS:

For purposes of these regulations, the following words, except where the context clearly indicates otherwise, shall be defined as follows:

- (A) "Commission" shall mean the Planning Commission of the city of Lansing.
- (B) "Community Park" shall mean a park of approximately 25 or more acres, serving an area 1-2 miles in radius, serving a population of approximately 5,000 persons and encompassing the service areas of 4 or more neighborhood parks. Community parks may typically contain lighted athletic facilities for more active play purposes, such as ball fields for football, softball, baseball and soccer, and a recreation center or swimming pool located adjacent to existing or proposed greenbelt areas and proposed junior and senior high school sites.
- (C) "Governing Body" shall mean the City Governing Body of the city of Lansing, Kansas.
- (D) "Subdivider or Developer" shall mean an individual, firm, association, syndicate, copartnership, corporation, or other organization dividing or proposing to divide land, developing or making improvements to such land, so as to effect a subdivision of land hereunder for himself, or for itself, or for another.
- (E) "Subdivision" shall mean the division of any lot, tract, or parcel of land into two (2) or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision or replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land for agricultural purposes, i.e., ranching, farming and dwelling pertaining to such uses, in tracts of ten (10) acres or more and not involving any new street, alley, or easement of access. When appropriate to context, the term subdivision shall relate to the process of subdividing or to the land subdivided. Subdivisions of mobile home spaces for sale, lease, or rent shall comply with all provisions of Ordinance No. 454 of the city of Lansing regulating mobile home parks, as it now exists or it may hereafter be amended.
- (F) "Dwelling Unit" shall mean any building, structure, or mobile home, or part thereof, which is designed, used, or intended to be used, for human occupancy as the living quarters of one housekeeping unit or family.

- (G) "Neighborhood Park" shall mean a park of approximately 5-25 acres, serving an area 1/4-1/2 mile in radius, and serving a population of approximately 1,000 persons. Neighborhood parks should be designed to service a specific neighborhood area and may include playground apparatus and other space for active recreational purposes along with some areas for passive use. Whenever possible, neighborhood parks may be located adjacent to existing or proposed greenbelt areas and proposed elementary school sites.
- (H) "Development" shall mean the actual or proposed use of land for one or more buildings, structures or mobile homes which are designed or intended to be used, in whole or in part, for one or more structures.

4. GENERAL REQUIREMENTS:

(A) Conveyance or Payment of Money Required:

The owner of any property to which these regulations apply, which is to be developed for residential, commercial, or industrial purposes, shall convey for park purposes land, or make a payment of money in lieu of land, or a combination of both, to the city at the time of submitting the final plat to the Governing Body for approval of the dedication of rights-of-way, easements, or public use, to provide for the recreational needs created by new residential development, in accordance with the provisions of these regulations.

(B) Proposed Number of Structures to Be Submitted:

All plats, lots of record, replats, site plans or proposed improvements of land for new development, required to be submitted to the Commission and Governing Body, shall indicate the number of proposed structures to be constructed or placed within the development on such plat, lot of record, replat, or site plan.

(C) Determination of Requirements:

In reviewing any lot of record, plat, site plan, or proposed improvements of land for a new development, the Commission shall, make a recommendation of whether a conveyance of land, payment of money in lieu of land, or combination of both, shall be made to meet the requirements of these regulations.

(D) Factors Considered:

In making a recommendation of whether a proposed conveyance of land, money in lieu of land, or combination of both, shall be made to meet the requirements of this chapter, the Commission shall consider what would be in the best interest of the city based upon relevant factors, which may include, but not be limited to, the following:

- (1) Whether the proposed land to be conveyed for park purposes would be suitable as a neighborhood or community park.
- (2) The recommendation of the Parks and Recreation Advisory Board or the Division of Parks and Recreation Superintendent.
- (3) Whether the proposed land to be conveyed for park purposes is adjacent to an existing or proposed school site.
- (4) Whether there is sufficient existing public or private park land in the area of the proposed development.
- (5) Whether the park needs of the area where the proposed development is located would be best served by expanding or upgrading existing parks; or

- (6) Land located adjacent to a linear park or greenway.
- (7) The guidelines of the current Lansing Comprehensive Plan.

(E) Suitability of Proposed Conveyance of Land for Park Purposes:

The Planning Commission shall make a recommendation as to the suitability of land proposed for conveyance. A proposed conveyance of land to meet the requirements of this ordinance shall not generally be considered suitable for neighborhood or community park purposes if it has one or more of the following characteristics:

- (1) Generally if more than 80% of the proposed park site is located within the 1% flood boundary, as shown on the latest flood insurance rate map or floodplain ordinance adopted by the city of Lansing on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. The city of Lansing may take more than the 80% floodplain land if it is determined in the best interest of the city of Lansing. (See paragraph 5c., Credit for Conveyance of Floodplains.)
- (2) The proposed park site dedication is of less than 5 acres for a neighborhood park, or 25 acres for a community park, unless the proposed dedication is located in such a manner in which it could be combined with other dedications to create a park of adequate size.
- (3) It has unusual topography or slope or any other conditions such as high pressure pipelines, overhead or underground utilities which render it unsuitable for organized recreational activities.
- (4) It does not or would not front an improved public street or would not be readily accessible, in whole or in part, to the public.
- (5) Parcels which are intended for the exclusive use of the lot owners of the subdivision, their licensees, visitors, tenants, and servants shall not be considered suitable to meet the requirements for conveyance of land for park purposes (except PUD).

(F) Combination of Land and Payment of Money:

The Commission may, when the best interest of the city would be served, make a recommendation to accept a combination of the dedication or conveyance of land and the payment of money in lieu of land to meet the requirements of these regulations.

(G) Payment of Money in Lieu of Land Dedication:

The Governing Body may, when the best interest of the city would be served, decline to accept the public dedication of park land and require a payment of money as set forth in the Schedule of Fees, Article 12, Section 6, in lieu of land dedication to meet the requirements of these regulations. Further, they may decline to accept the public dedications if they determine that the dedications are insufficient.

5. CONVEYANCE OF LAND REQUIREMENTS:

Where the Commission determines that a conveyance of land shall be recommended, in whole or in part, to meet the requirements of these regulations, the following provisions shall apply.

(A) Amount:

Any required conveyance of land shall be in an amount equal to 10% of the proposed development, exclusive of streets, alleys, easements, or other public ways.

(B) Manner and Method:

Plats of subdivisions required to be submitted for approval by the city in accordance with the Subdivision Regulations shall show thereon a fee simple conveyance to the city of the land required by this ordinance for park purposes as a condition to approval of such plat by the Commission, and the city may further require the conveyance of the park property by General Warranty Deed. As a condition to acceptance of the plat or deed by the city, the subdivider shall provide the city with an Owner's Title Policy of Insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the city.

If any zoning change results in a change from residential to commercial or industrial zoning, and money in lieu of land was received to satisfy the provisions of these regulations, the difference in the fee required as a result of the zoning change or use (in accordance with Article 12, Section 6) shall be made up by the developer as a fee in lieu of land dedicated to be paid prior to issuance of a building permit.

(C) Credit for Conveyance of Floodplains:

In cases where floodplain land or property is proposed to be conveyed to satisfy the park land requirement, a credit will be given based upon the following formula or ratio:

2 acres of floodplain shall equal one (1) acre of non-floodplain land.

(D) Location:

The land required to be conveyed may be located inside or outside the boundaries of the development so long as the land is so located and in such proximity to the development so as to serve or benefit persons residing therein, as approved by the Governing Body.

(E) Improvements to be Made:

The person required to convey land shall be responsible for, and pay the costs of, providing convenient access by improved streets, sidewalks, adequate drainage improvements so that the site is suitable for the purpose intended, and water, sewer, and electrical utilities to the property required to be dedicated or conveyed in accordance with the procedures applicable to other public improvements as specified in the Subdivision Regulations of the city of Lansing; provided, however, that the Governing Body may waive, in whole or part, such required improvements where an amount of land in excess of the requirements of this ordinance is conveyed, the value of which is equal to, or greater than, the cost of the improvements being waived. Such waivers shall be specified, on a case by case basis, in a facilities agreement between the developer and the city for the given subdivision.

6. MONEY IN LIEU OF LAND OR AMENITIES:

Where the Governing Body determines that a payment of money in lieu of land shall be made, the following provisions shall apply.

(A) Schedule of Filing Fees:

Fees shall be as set forth in Park Land (Money in Lieu of Land), Article 12, Section 6, of these regulations.

(B) Time of Payment:

Any payment of money required herein shall be paid as a condition to approval of any final plat or replat. Payment shall be made prior to the signing of the plat unless otherwise stated in a facilities agreement approved by the Governing Body.

(C) Park Development Fund:

All cash payments paid to the city in accordance with these regulations shall be deposited in the Capital Improvement Fund as a restricted reserve for park land development. The city shall account for all such payment with reference to each development for which the payment is made.

(D) Use of Funds:

Any payments made may be used for any lawful purpose approved by the Governing Body, to include the acquisition, development, expansion or upgrading of neighborhood or community parks.

7. AMENITIES IN LIEU OF LAND OR PARKLAND FEES

(A) The Parks and Recreation Director will review proposed amenities designed to offset land or parkland fees subject to this section, and said recommendation will be considered by the Planning Commission for recommendation to the City Council for final approval:

(B) Amenity offset will equate to 150% or more of the calculated parkland fees.

(C) The developer must provide an estimate for the value of the offset.

(D) The City will consider the amenity offset subject to the following criteria:

(1) The amenity or benefit must be recreation related and desirable to the city of Lansing, and;

(2) The amenity or benefit may not restrict or prohibit access of any group of citizens or non-residents, but must be accessible to the public at-large, and;

(3) The amenity or benefit must have an approved mechanism for the continued and future maintenance and improvements of such amenity or benefit, and;

(4) The amenity or benefit must be equal to 150% of the parkland fee assessment. The City shall have sole discretion as to the determination value. *For illustration purposes only as to the 150% criterion, a parkland fee rate of \$10,000 could be offset for any amenity or benefit valued at \$15,000 or more, and;*

(5) If an approved amenity or benefit initially meets or exceeds the requirements of this section but are modified or changed over time and would no longer meet the requirements for the offset, the City may retroactively charge and/or assess parkland fees in hindsight to the developer, Home Owners Association (HOA), or current real property owners of the lots subject to the requirements of this section.

8. PENALTIES, SANCTIONS, AND REDETERMINATIONS:

(A) Requirements to be Satisfied Prior to Development:

It shall be unlawful for any person who is required to convey land, or pay money, in lieu of land, as required by these regulations, to begin, or allow any other person or contractor to begin, any construction or improvements on any land within any development to which these regulations apply, until the required conveyance of land, or payment of money in lieu of land, is made to the city in accordance with these regulations.

(B) Permits and Services to be Withheld:

No building permits shall be issued for, and no permanent utility services shall be provided to, any land within any development to which these regulations apply until the required conveyance of land, or payment of money in lieu of land, is made to the city in accordance with these regulations.

(C) Redetermination of Requirements for Proposed Additional Dwelling Units:

After the Governing Body has accepted the public dedications, or after the requirements of these regulations have been met, based upon the proposed number of residential dwelling units for any land to which these regulations apply, any person who desires to construct a

number of dwelling units in excess of the number of dwelling units on an approved plat for which the requirements of these regulations were determined or met, must submit to the Commission a revised plat for additional dwelling units for the development. Once the Commission has approved a plat increasing the number of dwelling units allowed on a platted lot, block, tract, or subdivision, the developer shall pay a fee in lieu of land for the additional dwelling units at the time the Commission approves the new final plat or replat.

CITY OF LANSING FORM OF SUMMARY FOR PUBLICATION OF ORDINANCE

Ordinance No. 972: An Ordinance Amending the Lansing Subdivision Regulations, as adopted by reference in Lansing City Code, Section 17-201; further amending Articles 4 and 5.

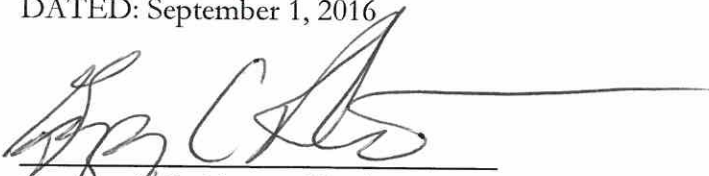
Pursuant to the general laws of the State, a general summary of the subject matter contained in this ordinance shall be published in the official City newspaper in substantially the following form:

Ordinance No. 972 Summary:

On September 1, 2016, the City of Lansing, Kansas, adopted Ordinance No. 972, amending the Lansing Subdivision Regulations, as adopted by reference in Lansing City Code, Section 17-201; further amending Articles 4 and 5. A complete copy of this ordinance is available at www.lansing.ks.us or at City Hall, 800 First Terrace, Lansing, KS 66043. This summary certified by Gregory C. Robinson, City Attorney.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: September 1, 2016



Gregory C. Robinson, City Attorney