

ORDINANCE NO. 2745

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS, REPEALING ORDINANCE NO. 2187 AND REPLACING CHAPTER 10, SUBDIVISIONS, ARTICLE IV, PUBLIC SITES AND OPEN SPACES, SECTION 4, PARK LAND AND PUBLIC FACILITY DEDICATION BY PROVIDING FOR PARK LAND DEDICATION AND CASH PAYMENT, OR, IN THE ALTERNATIVE, PROVIDING FOR A CASH PAYMENT IN LIEU OF PARK LAND DEDICATION AS A CONDITION TO RESIDENTIAL SUBDIVISION PLAT APPROVAL; ESTABLISHING A SPECIAL FUND FOR LAND DEDICATION; PROVIDING FOR SEVERABILITY, PROVIDING A PENALTY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds and determines that the platting of residential subdivisions and development of lots resulting in an increase of population which in turn necessitates the need for additional park land and park improvements; and

WHEREAS, the City Council finds and determines that it is in the best interests of the citizens of the City of Terrell to ensure that residential developments are provided with sufficient land to provide for the development of park improvements and amenities to meet the demand for future neighborhood parks; and

WHEREAS, the City Council recognizes that the establishment of neighborhood parks is necessary and in the interest of public welfare that an effective method to provide for same is incorporated into the procedures for the dedication of park land and the provisions for park improvements and amenities; and

WHEREAS, Texas Local Government Code §51.071 *et. seq.* together with Texas Local Government code §212.001 *et. seq.* permits the City of Terrell, as a Home Rule City, to regulate park dedications as a part of subdivisions;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY TEXAS:

ARTICLE I.

THAT Ordinance No. 2187 is repealed and that Chapter 10, Subdivisions, Article IV, Public Sites and Open Spaces, Section 4, Park Land and Public Facility Dedication is replaced as follows:

Section 4.4. Park Land and Public Facility Dedication.

a. Dedication of Land and Payment of Park Development Fee.

1. Prior to a plat being filed with the County Clerk of Kaufman County, Texas for the development of a residential area within the City of Terrell and in accordance with the planning and zoning ordinances of the City of Terrell, such plat shall contain a fee simple dedication of one acre of land for each fifty (50) proposed dwelling units.
used in this ordinance, a "dwelling unit" means each individual residence including, but not limited to, individual residences in a multi-family structure designed and/or intended to be inhabited by a single family.
2. Any proposed plat submitted to the City of Terrell for approval shall show the area proposed to be dedicated under this section. The required land dedication of this Section may be met by a payment in lieu of land where permitted by the City of Terrell.
3. In the event a plat is not required, the dedication of land under this Section shall be met prior to the issuance of any permit.
4. The City Council of the City of Terrell declares that development of an area of less than five (5) acres for neighborhood park purposes is impractical and inadequate. Accordingly, if fewer than two hundred fifty (250) dwelling units are proposed by a plat filed for approval, the City Council may require the developer to pay the applicable cash in lieu of land amount as provided in herein.
5. In addition to the required dedication of land as set forth above, there shall also be a park development fee paid to the City of Terrell as a condition to approval of a subdivision plat. Such park development fee shall be set by the City Council of sufficient amount to provide for the development of amenities and improvements on the dedicated land to meet the standards for a neighborhood park to serve the area in which the subdivision is located. Unless and until changed by the City Council, the park development fee shall be calculated on the basis of Six Hundred Dollars (\$600.00) per dwelling unit.
6. In lieu of payment of the required park development fee, a developer shall have the option to construct the neighborhood park amenities and improvements. All plans and specifications for the construction of such amenities and improvements shall be reviewed and approved by the City of Terrell. The developer shall financially guarantee the construction of the amenities and improvements with the City of Terrell approving same prior to the filing of a plat in the event of platted subdivisions. Upon completion of the amenities and improvements and acceptance by the City of Terrell, the developer shall dedicate by plat such amenities and improvements to the City of Terrell.
7. In instances where land is required to be dedicated, the City of Terrell shall have the right to accept or reject the dedication. In the event the City of Terrell elects to reject such dedication, the City of Terrell may require a cash payment in lieu

of land in the amount provided under section b. below. Factors to be considered in making the above determination include the existence of sufficient park area already in the public domain for the area of the proposed development, or if the recreational potential for that area would be better served by expanding or improving existing neighborhood parks.

8. When two or more developments will be necessary to create a neighborhood park of sufficient size in the same area, the City will work with the developers to define the optimum location for the required dedication within the respective plats. Once a park site has been determined, adjacent property owners who develop around the park site shall dedicate land and cash to the existing site unless otherwise determined by the City Council.

b. Cash in Lieu of Land

1. A developer responsible for land dedication under this section shall be required, at the City Council's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land in the amount set forth below. Such payment in lieu of land shall be made prior to the filing of the final plat for record or prior to the issuance of any permit where a plat is not required.
2. The cash payment in lieu of land shall be met by the payment of a fee set from time to time by ordinance of the City Council in an amount sufficient to acquire neighborhood park land. Unless and until changed by the City Council, such fee shall be computed on the basis of Six Hundred Dollars (\$600.00) per dwelling unit.
3. A cash payment in lieu of land dedication as set forth in this section does not relieve the developer of its obligation to pay the park development fee set forth above. The cash payment in lieu of land dedication is in addition to the required park development fee.
4. The City of Terrell may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a park service area, subsequent park land dedications for that zone shall be in cash only with the calculation of same in the amount set forth above. Such cash payment is in addition to the payment of the required park development fee.

c. Special Fund / Right to Refund

1. All funds collected by this dedication process will be deposited in the City of Terrell's Park Development Fund and used solely for the purchase or leasing of park land together with the development of same. All expenditures from said Fund will be reviewed and approved by the City Council.

2. The City of Terrell shall account for all sums paid into the Park Development Fund with reference to the individual plats involved. Any monies paid into the said Fund must be expended by the City of Terrell within ten (10) years from the date received by the City. Such funds shall be considered to be spent on a first in, first out basis in a particular park service area. If not so expended within the ten (10) year period, the owners of lots within the subdivision may, on the last day of such period, be entitled to a refund of any remaining fees. The current owners of the property within the subdivision must request in writing such a refund within one (1) year of entitlement or such right is waived.

d. Additional Requirements / Definitions

1. Any land dedicated to the City under this ordinance must be suitable for park and recreational uses. The following characteristics of a proposed area are generally unsuitable and may be grounds for the refusal of any plat:
 - (a) Any area primarily located within a 100 year flood plain; and
 - (b) Any areas of unusual topography or slope which renders the same unsuitable for organized recreational activities.
2. Drainage areas may be accepted as part of a park if the channel is to remain, more or less in its natural state or constructed in accordance with City engineering standards. Further, no significant area of the park may be cut off from access by such channel. In addition, not less than five (5) acres of the site is above the 100 year flood plain or if the dedication is in access of ten (10) acres, not more than fifty percent (50%) of the site should be included in the 100 year flood plain.
3. Each park must have ready access to a public street.
4. Unless provided otherwise herein, an action by the City shall be by the City Council.
5. Any final plat approved prior to the August, 2003 shall be exempt from the requirements set forth in Section b above.

e. Penalty

Any violation of this Section shall be punishable "General Penalty for Violations of this Code as specified in Chapter 1, General Provisions, Section 1 (g) of the Terrell City Code of Ordinances.

ARTICLE II.

All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council of the City of Terrell, Texas that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections.

ARTICLE IV.

All other provisions of Chapter 10 not expressly modified by this Ordinance shall remain in full force and effect.

ARTICLE V.

This Ordinance shall take effect immediately after its passage and the publication of the caption as the law in such cases provides.

PASSED AND APPROVED on this the 16th day of October, 2018

PASSED AND ADOPTED on this the 1st day of November, 2018.



D.J. Ory, Mayor

ATTEST:



John Rounsavall, City Secretary

Approved as to Form:



Mary Gayle Ramsey, City Attorney

