

**ORDINANCE NO. 2187**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING CHAPTER 20, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS; PROVIDING FOR PARK LAND DEDICATION AND CASH PAYMENT, OR PARK LAND DEDICATION AND PARK CONSTRUCTION, OR CASH PAYMENT IN LIEU OF PARK LAND DEDICATION, AS A CONDITION TO RESIDENTIAL SUBDIVISION PLAT APPROVAL; ESTABLISHING A SPECIAL FUND FOR LAND DEDICATED AND MONEY PAID FOR DEVELOPMENT; CONTAINING A SAVINGS CLAUSE; CONTAINING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

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

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

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

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

SECTION 1: That the Subdivision Regulations of the Code of Ordinance shall be amended in Section 7.02-J, 5.08-D, Park Land Dedication, which shall hereafter read in its entirety as follows:

SECTION 2: PURPOSE

- 2a. This ordinance is adopted to provide recreational areas and amenities in the form of neighborhood parks as a function of subdivision development in the City of Terrell. This ordinance is enacted in accordance with the Home Rule powers of the City of Terrell, granted under the Texas Constitution and statutes of the State of Texas, including, without limitation, TEX. LOC. GOV'T. CODE § 51.071 et seq. and § 212.001 et seq.

It is hereby declared by the City Council of the City of Terrell that recreational areas, in the form of neighborhood parks and related amenities and improvements, are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property of a residential subdivision in the City of Terrell, whether such development consists of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.

- 2b. Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby, the standards for which are set forth in the Terrell Parks, Recreation and Open Space Master Plan. The neighborhood parks shown on the official Terrell Parks,

Recreation and Open Space Master Plan, shall be *prima facie* evidence that any park located therein is within such a convenient distance from the majority of residences to be served thereby. The cost of the neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to effect such purposes.

SECTION 3: GENERAL REQUIREMENT: DEDICATION OF LAND AND PAYMENT OF PARK DEVELOPMENT FEE

- 3a. Prior to a plat being filed with the County Clerk of Kaufman County, Texas for a 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 clear fee simple dedication of one acre of land for each 133 proposed dwelling units. As used in this ordinance, a “dwelling unit” means each individual residence, including individual residences in a multi-family structure, designed and/or intended for inhabitation by a single family.

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 or required by other provisions in this ordinance.

In the event a plat is not required, the dedication of land required under this Section shall be met prior to the issuance of a building permit.

- 3b. The City Council of the City of Terrell declares that development of an area of less than five acres for neighborhood park purposes is impractical. Therefore, if fewer than 665 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 Section 4 hereto.
- 3c. 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 subdivision plat approval. Such park development fee shall be set by ordinance of the City Council of the City of Terrell sufficient 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 an ordinance amendment of the City Council of the City of Terrell, the park development fee shall be calculated on the basis of \$250 per dwelling unit.
- 3d. 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 must be reviewed and approved by the City of Terrell. The developer shall financially guarantee the construction of the amenities and improvements, and the City of Terrell must approve same, prior to the filing of a plat in the case of platted subdivisions. Once the amenities and improvements are constructed, and after the City of Terrell has accepted such amenities and improvements, the developer shall dedicate by plat such amenities and improvements to the City of Terrell.

- 3e. In instances where land is required to be dedicated, the City of Terrell shall have the right to accept or reject the dedication after consideration of the recommendation of the Parks Board and to require a cash payment in lieu of land in the amount provided under Section 4 hereto, if the City of Terrell determines that sufficient park area is already in the public domain for the area of the proposed development, or if the recreation potential for that area would be better served by expanding or improving existing neighborhood parks.
- 3f. When two or more developments will be necessary to create a neighborhood park of sufficient size in the same area, the Parks Board, at the time of preliminary plat approval, will work with the developers to define the optimum location of 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.

#### SECTION 4: CASH IN LIEU OF LAND

- 4a. A developer responsible for land dedication under this ordinance 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 filing the final plat for record, or prior to the issuance of a building permit where a plat is not required.

The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by ordinance of the City Council sufficient to acquire neighborhood park land.

Unless and until changed by the City Council, such fee shall be computed on the basis of \$250 per dwelling unit.

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 in Section 3c above. The cash payment in lieu of land dedication is in addition to the required park development fee.

- 4b. 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, the calculation of which is set forth in Section 4a above. Such cash payment is in addition to the payment of the required park development fee.

#### SECTION 5: SPECIAL FUND, RIGHT TO REFUND

- 5a. 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 and the development of same. All expenditures from the said Fund will be reviewed and approved by the City Council.
- 5b. 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 will, on the last day of such period, be entitled to a refund of the remaining fees. The current owners of the property within the subdivision must request such a refund within one (1) year of entitlement, in writing, or such right is waived.

#### SECTION 6: ADDITIONAL REQUIREMENTS, DEFINITIONS

6a. Any land dedicated to the City under this ordinance must be suitable for park and recreation uses. The following characteristics of a proposed area are generally unsuitable:

1. Any area primarily located in the 100 year flood plain.
2. Any areas of unusual topography or slope which renders same unusable for organized recreational activities.

The above characteristics of a park land dedication area may be grounds for refusal of any plat.

6b. 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, if no significant area of the park is cut off from access by such channel, if not less than five (5) acres of the site is above the 100 year flood plain, or if the dedication is in excess of ten (10) acres, not more than fifty percent (50%) of the site should be included in the 100 year flood plain.

6c. Each park must have ready access to a public street.

6d. Unless provided otherwise herein, an action by the City shall be by the City Council, after consideration of the recommendations of the Parks Board.

6e. Any preliminary plat approved prior to the effective date of this ordinance shall be exempt from these requirements set forth herein; however, when such preliminary approval expires, any resubmission of such plat shall meet the requirements of this ordinance.

#### SECTION 7: REPEALER

All ordinances or parts of ordinances which are inconsistent or in conflict herewith are hereby repealed.

#### SECTION 8: SEVERABILITY

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged or for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby.

#### SECTION 9: PENALTY

Violations of this chapter are punishable as provided in Chapter 1, Section 1.G of the Terrell City Code, Revised.

**SECTION 10: EFFECTIVE DATE**

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

**PASSED AND APPROVED** this the 5<sup>th</sup> day of August, 2003.

**PASSED AND ADOPTED** this the 19<sup>th</sup> day of August, 2003.

APPROVED:

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E. Rick Carmona, Mayor Pro tem

ATTEST:

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John Rounsavall, City Secretary

APPROVED AS TO FORM:

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Mary Gayle Ramsey, City Attorney