

**ORDINANCE No. 2207**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS PROVIDING FOR THE EXTENSION OF A ONE HUNDRED TWENTY (120) DAY MORATORIUM FOR THE ACCEPTANCE AND APPROVAL OF ALL PERMITS, APPLICATIONS, AND SITE PLANS RELATING TO THE PLANNING OF OR CONSTRUCTION ON REAL PROPERTY LOCATED WITHIN THE BOUNDARIES AS OUTLINED IN ATTACHMENT A, WITHIN THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS; SAID MORATORIUM BEING FOR THE PURPOSE OF STUDYING AND POSSIBLY AMENDING DEVELOPMENT REGULATIONS APPLICABLE TO REAL PROPERTY WITHIN THIS AREA; PROVIDING AN APPEAL PROCESS; DIRECTING THE PLANNING AND ZONING COMMISSION TO CONTINUE WITH PROCEDURES TO STUDY AND POSSIBLY AMEND SAID ZONING; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A TERMINATION DATE.**

**WHEREAS**, the City Council of the City of Terrell finds that there are inadequate essential public facilities creating a necessity to extend a 120 day moratorium for an additional 120-days in accordance with State law on real property located within the boundaries as outlined in Attachment A, within the City of Terrell, Kaufman County, Texas; and

**WHEREAS**, the City Council finds that it is in the best interest of the City to extend this moratorium in Ordinance No. 2194, so that the Planning and Zoning Commission can further study the current zoning classifications and the City can also assess whether or not there are adequate essential public facilities and/or land use regulations for the anticipated growth on the subject area; and

**WHEREAS**, public workshops and hearings related to the proposed zoning and/or development regulations are anticipated to commence in March 2004; and

**WHEREAS**, it is in the City's interest to ensure that future development complies with the newly adopted regulations; and

**WHEREAS**, upon full review by the City Council of all matters related thereto, the City Council is of the opinion that the public interest would be served by the provision of the extension of the one hundred twenty (120) day moratorium for an additional 120-days.

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

**SECTION 1:** Such public hearing to consider a 120 day extension to the existing moratorium on real property located within the boundaries as outlined in Attachment A, within the City of Terrell, Kaufman County, Texas, was held on December 2, 2003. And the City Council finds that it is in the best interest of the City to impose an extension to the existing 120 day moratorium, extending to April 25, 2004, within the specified boundaries to allow the City adequate time to further study the current zoning classifications for the said area and to allow the City to assess whether there are adequate essential public facilities to meet the anticipated growth of said area.

**SECTION 2:**

- (1.) Except as otherwise provided herein, after the effective date of, and extending for the duration of this ordinance, no city employee, officer, agent, bureau, department, board, or commission of the City shall accept for filing any development applications or take any action to process such applications. Applications, together with any documents or fees accompanying the applications, which are submitted during the duration of this ordinance, shall be returned to the applicant as unfiled.

- (2.) After the effective date of, and extending for the duration of this ordinance, no city employee, officer, agent, bureau, department, board, or commission of the City shall further process any pending applications, including but not limited to, acceptance of fees, review or evaluation of the applications, scheduling for public review or hearing, formulation of conditions or issuance of preliminary or final approvals of such applications.
- (3.) Where state law or city ordinance, regulation, or other officially adopted rule requires evaluation, approval or other act of processing of any pending application duly filed with the City in a period of time shorter than the duration of this ordinance, the City shall undertake such action in accordance with such law, ordinance, regulation, or rule within the prescribed time; provided, however, that the City shall not accept for filing any subsequent or amended application or take any action on any pending application not prescribed by ordinance to occur within a time certain, during the duration of this ordinance.

**SECTION 3: EXEMPTIONS.** The provisions of Sections 1 and 2 of this Ordinance are not applicable to any applications for the completion of a development which has received final site plan approval prior to the effective date of this Ordinance, excluding applications for zoning or rezoning, or major amendments to such final site plan.

**SECTION 4: APPEALS.**

- (1.) An applicant for a development application aggrieved by the City's decision not to accept for filing or to further process such application may appeal for relief to the City Manager or his designee in accordance with this ordinance. The appeal shall be in writing and shall be submitted to the Office of the City Manager, within ten (10) days of the date of notification that the development application will not be accepted for filing or will not be further processed for the duration of this Ordinance.
- (2.) The appeal shall be considered by the City Manager, within twenty (20) days of the date the appeal is received in the Office of the City Manager. The City Manager shall not release the applicant from the requirements of this Ordinance, unless the applicant first presents credible evidence from which the City Manager can reasonably conclude that the delay in accepting or processing the development application substantially deprives the applicant of vested property rights protected by state law or constitutional provision. The City Manager shall also consider whether such potential deprivation outweighs the potential harm to the public health, safety and general welfare resulting from development prior to the adoption of new development regulations.
- (3.) The City Manager may take the following action:
  - (a) deny the appeal, in which case the development application shall not be accepted or further processed;
  - (b) grant the appeal and direct that the Municipal Development Director, building official or other official responsible for reviewing the development application to accept the application for filing or to further process the application.

**SECTION 5:** The City of Terrell Planning and Zoning Commission is hereby directed to continue to study and recommend the possible rezoning and other development regulations for the real property located within the boundaries as outlined in Attachment A, within the City of Terrell, Kaufman County, Texas.

**SECTION 6:** Unless the City Council determines to terminate the duration of this ordinance sooner, the provisions of this ordinance shall be in effect from the expiration of the initial moratorium, December 27, 2003 until April 25, 2004.

**SECTION 7:** It is the intention of the City Council that this ordinance and every provision thereof shall be considered severable in the invalidity of any section, clause, or provision or part or portion of any section, clause or provision of this ordinance shall not affect the validity of any other portion of this ordinance.

**SECTION 8:** Any and all ordinances, orders, resolutions, rules, regulations, policies, or provisions in conflict with the provisions of this ordinance are hereby repealed and rescinded to the extent of any conflict herewith.

**SECTION 9:** This ordinance shall become effective immediately from and after its passage.

**PASSED AND APPROVED** this the 2<sup>nd</sup> day of December, 2003.

**PASSED AND ADOPTED** this the 10<sup>th</sup> day of December, 2003.

---

Frances R. Anderson, Mayor

**ATTEST:**

---

John Rounsavall, City Secretary

**APPROVED AS TO FORM:**

---

Mary Gayle Ramsey, City Attorney