

CITY OF FORNEY, TEXAS

ORDINANCE NO. 19- _____

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 10, ARTICLE 10.02 OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, SECTION 4.4 OF EXHIBIT A, SUBDIVISION ORDINANCE, "PARKLAND DEDICATION," TO AMEND THE REVIEW PROCEDURES FOR PARKLAND DEDICATION OR PARKLAND DEDICATION FEES; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Forney, Texas adopted Ordinance No. 18-23 on June 19, 2018;
and

WHEREAS, the City Council desires to amend the Ordinance to amend the review procedures for parkland dedication or parkland dedication fees.

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

Section 1. FINDINGS INCORPORATED

All of the above premises are found to be true and correct factual and legislative determinations of the City of Forney and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. AMENDMENT OF ORDINANCE

From and after the effective date of this Ordinance, Chapter 10, Article 10.02, Exhibit A, Subdivision Ordinance, Section 4.4, of the Code of Ordinances of the City of Forney, Texas, entitled "Parkland Dedication," is hereby amended with the following changes, which each pertinent part shall read in its entirety as follows:

Section 4.4: Parkland Dedication

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C. Requirements.

1. General.

The City Manager or his designee shall administer this Section with certain review, recommendation and approval authorities being assigned to the City Council and various City Departments as specified herein.

Generally, the developer of residential property must address the following requirements pursuant to this Section: dedication of land for park use or payment of a fee-in-lieu thereof and payment of a park development fee for parks or construction of the park improvements to which such fee relates. Requirements herein are based on actual or

approved dwelling units for an entire development or project. Increases or decreases in final dwelling unit count may require an adjustment in fees paid or land dedicated. If the actual number of dwelling units exceeds the original estimate, additional parkland and additional parkland development fees may be required in accordance with the requirements in this Section.

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6. Approval Process for Parkland Dedication.

- a. All single-family residential and multifamily residential plats shall be reviewed by the City staff including the Forney Parks Department for compliance with this ordinance.
- b. Parkland dedication proposals must obtain final approval from the City Council pursuant to the plat review and approval process after receiving a recommendation from City staff.
- c. Should a proposed dedication go before the Planning and Zoning Commission as part of the required project approval, the Planning and Zoning Commission shall consider staff's recommendation and may offer an independent recommendation to be forwarded to the City Council for consideration.
- d. The following criteria should be considered by the City Council for all parkland dedication and/or fee requests:
 - 1. The proposed plat shall clearly identify the proposed public parkland to be dedicated;
 - 2. The proposed dedication or fee shall provide a sufficient amount of parkland in the area of the proposed development for required parkland dedication;
 - 3. Where the proposed dedication is insufficient for a park site under existing park design standards, some or all of the dedication requirements may be in the form of a fee in amounts as set forth in Subsection J;
 - 4. Determination of acceptability of a proposed parkland dedication is based upon the City of Forney's Parks, Recreation and Open Space Master Plan, as may be amended from time to time and the criteria contained herein;
 - 5. Land is usable and compatible with the City's Comprehensive Plan, its Future Land Use Plan, the Parks, Recreation and Open Space Master Plan, and other approved public plans;
 - 6. The level of service necessary in the immediate vicinity of the proposed parkland;
 - 7. The existence of a nearby park that would be served with the funds better or more by expansion or improvement; and
 - 8. Public access consideration.

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8. Construction of Park Improvements in Lieu of Development Fee. A developer may elect, subject to approval by the City Council, to construct required park improvements in lieu of paying the associated development fees as set forth herein. The following shall be required in such event.
- a. A park site plan, developed in cooperation with the City staff, must be reviewed and approved by the City Council upon submission of final plat for a single-family residential use or upon application for a building permit for multifamily residential uses, whichever is applicable.
 - b. All plans and specification shall meet or exceed all applicable City Codes and Ordinances as well as the City's level of service standards and/or scale-specific intent as specified in the City of Forney Parks, Recreation and Open Space Master Plan, as may be amended from time to time, and the criteria contained herein, in effect at the time of the submission.
 - c. If the improvements are constructed on land that has already been dedicated to and/or is owned by the City, then the developer must post payment and performance bonds to guarantee the payment to subcontractors and suppliers and to guarantee the developer completes the work in accordance with the approved plans, specifications, ordinances, and other applicable laws.
 - d. The construction of all improvements must be completed in accordance with the requirements relating to the construction of public improvements for final plats and issuance of building permits, whichever is applicable. This includes the guaranteeing performance in lieu of completing the park improvements prior to final plat approval. Notwithstanding any other applicable ordinances, park improvements should be completed within two years from the date of the approval.
 - e. Park development will be considered complete and a Certificate of Completion will be issued after the following requirements are met:
 - 1. Improvements have been constructed in accordance with the approved plans;
 - 2. All parkland upon which the improvements have been constructed has been dedicated as required by this Subsection; and
 - 3. All manufacturers' warranties have been provided for any equipment installed in the park as part of the improvements.
 - f. Upon issuance of a Certificate of Completion, the developer warrants the improvements for a period of two years.
 - g. The developer shall be liable for any costs required to complete park development if the developer fails to complete the improvements in accordance with the approved plans or if the developer fails to complete any warranty work.

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D. Prior Dedication or Absence of Prior Dedication.

If a dedication requirement arose prior to enactment or amendment of this Section, subsequent development for the subject tract to which the dedication requirements applies may be subject to vesting as set forth in Chapter 245 Texas Local Government Code. Depending on the circumstances, additional proportionate dedication may be required for the increase in dwelling units from what was originally proposed and may be either land dedication or money in lieu of land or development, at the discretion of the City Council. At the discretion of the City Council, any former gift of land or cash to the City may be credited toward eventual land dedication or development requirements imposed on the Developer.

Section 3. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 5. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Forney, Texas, on this the _____ day of _____, 2019.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jon Thatcher, City Attorney