

ORDINANCE NO. 18-C

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 21, SUBDIVISIONS AND PROPERTY DEVELOPMENT, ARTICLE VII, PARK LAND DEDICATION AND DEVELOPMENT FEE; ELIMINATING THE FOUR INDIVIDUAL PARK QUADRANTS; PROVIDING AN EFFECTIVE DATE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City of Alvin is experiencing a high rate of growth and is projected to grow significantly in population over the succeeding years; and

WHEREAS, new residential developments cause and impose increased demands upon the City's parks system that would not otherwise occur; and

WHEREAS, the City of Alvin finds that neighborhood parks are an important part of the City's park system, and that the City has a significant need for additional neighborhood parks as the City grows; and

WHEREAS, the City of Alvin desires to enact park land dedication and park development fee requirements that promote the development of additional neighborhood parks to retain sufficient park land for use by the current residents and sufficient park land for the new neighborhoods; and

WHEREAS, the Alvin Parks and Recreation Board has reviewed and recommends these requirements; and

WHEREAS, the City Council, after careful consideration, finds that these requirements imposed upon residential developments to provide park facilities, the demand for which is created by such developments are necessary and in the best interests of the citizens, are equitable, and do not impose an unfair burden on such developments; and

WHEREAS, this ordinance is enacted in accordance with the Home Rule powers of the City of Alvin, granted under the Texas Constitution and statutes of the State of Texas, including, without limitation, Texas Local Government Code § 51 and § 212 ,

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

Section 1. That the City Council hereby adopts the findings and recitals set forth in the preamble hereof.

Section 2. That Chapter 21 of the Code of Ordinances, City of Alvin, Texas, is hereby amended to read as follows:

CHAPTER 21, SUBDIVISIONS AND PROPERTY DEVELOPMENT

...

ARTICLE VII. PARK LAND DEDICATION AND DEVELOPMENT FEE

Sec. 21-126. Short title.

This article shall be known and cited as the "Park Land Dedication and Development Fee Article."

Sec. 21-127. Purpose and applicability.

(a) This article is adopted to provide and ensure adequate recreational areas and amenities in the form of neighborhood parks for subdivision developments subject to this chapter and to make the park land dedication and park development fee requirements an integral part of the review and approval of residential developments, whether the developments consist of new construction on previously vacant land or rebuilding and redeveloping existing residential areas. Property in the extraterritorial jurisdiction subdividing after the effective date of this article shall not be permitted to be utilized for residential use unless this article has been complied with.

(b) New developments or redevelopments that involve only the replacement or reconstruction of pre-existing dwelling units shall be exempt from the provisions of this article, provided that the developments do not increase the density of the pre-existing dwelling units or involve a replat of the property.

(c) Neighborhood parks are those parks that provide a variety of outdoor recreational facilities and within convenient distances from a majority of the residences to be served by such parks.

(d) The city currently has a park system; however, new residential growth adds demands for more public park space and amenities. The cost of the additional demands should be supplemented by the residential property owners who shall be the beneficiaries of such parks.

(e) The provisions of this article shall apply to the corporate limits of the city.

(f) The provisions of this article shall not apply to properties that are included in a valid preliminary or final plat application that was submitted before the effective date of this article.

Sec. 21-128. Park land dedication.

(a) When developing residential properties, the owner or developer shall be responsible for a fee simple dedication of park land at a ratio of one-one hundredth (1/100) of an acre or

four hundred thirty-five and six-tenths (435.6) square feet of land for each proposed dwelling unit. A “dwelling unit” shall mean each individual residence, including each individual residential unit in a multi-family residential structure or manufactured home park, designed or intended for habitation by a single family. Hereinafter, all references to “the developer” shall mean both the owner and the developer jointly and severally, where the owner and developer are not the same party.

(b) Plat submitted to the city for approval shall show the area required to be dedicated under this section.

(c) Each corner of the park land dedication shall have an iron rod or pin set, in accordance with other lot corners in the subdivision.

(d) The city council and the city parks and recreation board generally consider that development of neighborhood parks less than two (2) acres may be inefficient for public maintenance. Therefore, if fewer than two (2) acres are proposed as park land dedication, the city shall have the option to require the developer to pay the applicable cash in lieu of land amount as provided in section 21-130.

(e) The city, prior to preliminary plat submittal, will define the optimum location of the required park land dedication based upon the proposed park being located adjacent to current or future park land. If there is not an opportunity for the proposed park land dedication to be adjacent to current or future park land, then the city and developer will work together to define an optimum location for the park land dedication. If an optimum location cannot be determined, then the city shall accept the cash in lieu of land option as outlined in section 21-130.

(f) In the case of a multi-phase development, if the developer dedicates all of the park land required by this article in the first or early phase(s) of the development, no additional park land dedication will be required in later phases unless additional lots that are not shown in the original preliminary plat are included in the later phases of the development.

(g) Unless approved in writing by the city, no construction materials shall be disposed of or deposited within the dedicated park land by the developer or its contractors, subcontractors, employees, or agents, at any time while the subdivision is being built. If materials are deposited or disposed of within the park, the developer shall remove such materials within seventy-two (72) hours of written notice by the city. If the developer fails to remove the materials after notice, the city may do so at the developer's expense. The cost of removal shall be added to the subsequent request for a building permit.

Sec. 21-129. Park land dedication acceptance criteria.

(a) Land dedicated for a park or recreational area shall be of such size, dimensions, topography, and general character as is reasonably required by the city for the type of use necessary to meet the demand and need of future residents. Recreational needs for which land is dedicated may include but not be limited to multipurpose trails, equestrian trails, open space buffer areas, swimming pools, active recreation for team or individual sports, playground, picnic area, and similar uses.

(b) Rare, unique, endangered, historic, or other significant natural areas may be given a high priority for dedication pursuant to this article. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication.

(c) The city shall not accept land dedication pursuant to this article if it is subject to one or more of the following disqualifications, unless individually and expressly approved:

- (1) Land within floodplain and floodway designated areas, as defined by the FEMA, unless such land dedication contains an open area as part of the total park land dedication property that is topographically suitable for the installation of the park amenities for neighborhood parks. If floodplain and/or floodway areas are proposed by the developer, and if approved by the city, the donation ratio shall be increased to three (3) acres of land per one hundred (100) dwelling units.
- (2) Park land dedication sites which do not have ready access to public streets.
- (3) Park land dedication sites abutted by private properties on more than two-thirds (2/3) of the total boundary dimension of such site.
- (4) Areas encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.

(d) The city will not accept park land dedication sites encumbered by hazardous and or municipal waste materials or dump sites.

(e) If a developer proposes to dedicate land for park development purposes pursuant to the terms, conditions and requirements of this article, he or she shall permit the city to make an onsite inspection of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use. If the property owner has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the city. The city may initiate and/or require the developer, at developer's expense to initiate specific environmental studies or assessments if the visual inspection of the site gives rise to the belief that an environmental problem may exist on the site. The city may require the employment of those consultants necessary to evaluate any environmental issues relating to the site providing that the city makes such determination in good faith. If an environmental hazard is identified on the site, the developer at their expense must remove the hazard prior to its acceptance into the park and recreation system of the city.

(f) The intention of this article is not to discourage the creation of parks and amenities in subdivisions that will be maintained by homeowner's associations.

Sec. 21-130. Cash in lieu of land.

(a) An owner or developer responsible for park land dedication under this article may be required, at the city'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 dedication shall be made prior to filing the final plat for record. All funds collected pursuant to this section shall be used solely for the acquisition of park land and/or enhancements to new or existing park land.

(b) In the event a plat is not required, the park land dedication shall be met prior to the issuance of a building permit.

(c) In instances where land is required to be dedicated, the city shall have the right to reject the park land dedication and require a cash payment in lieu of land in the amount set forth below, if the city determines that:

- (1) The park land dedication site is such a small area that it is inefficient to maintain;
or
- (2) Development projects within the extraterritorial jurisdiction of the city are subject to the park land dedication requirements set forth within this article; however, the difficulty faced by the city, county, or other entity in maintaining property outside the corporate limits of the city may result in the application of a fee in lieu of the land dedication requirement.

(d) The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by city ordinance sufficient to acquire neighborhood park land. Unless and until changed by city ordinance, the cash payment shall be computed on the basis of one hundred fifty dollars (\$150.00) per dwelling unit within the proposed subdivision. For subdivisions not receiving a final plat prior to July 1, 2007 but for which a concept plan was filed after the effective date of this article, the cash payment fee shall increase to three hundred dollars (\$300.00) effective July 1, 2007 and for all plats filed after July 1, 2007, the fee shall be three hundred dollars (\$300.00).

Sec. 21-131. Additional land donation or donations outside of the development.

(a) A developer of a subdivision who dedicates more than the required park land requirements for that specific subdivision may receive credits for future park land dedication requirements for other subdivision developments that the developer may undertake within ten (10) years from the date of the dedication.

(b) A developer of a subdivision may dedicate park land that is not within the boundaries of the development and receive park land dedication credits for that subdivision. The proposed park land dedication must be approved by the city prior to the filing of the preliminary plat.

The proposed park land dedication must meet the park land dedication acceptance criteria outlined in section 21-129.

Sec. 21-132. Park development fund and right to refund.

(a) All funds collected pursuant to section 21-130 shall be deposited in the city's park development fund and used solely for the acquisition ~~or leasing~~ of park land and the development, improvement, or upgrades of new and existing parks. All expenditures shall be administered in accordance with the current purchasing requirements of the city. Funds shall not be used for the operation and maintenance of parks.

(b) The city shall account for all sums paid into the park development fund. Any monies paid into said fund must be expended by the city within ten (10) years from the date that all the land for a neighborhood park for the subdivision has been acquired and when the subdivision(s) adjacent to that park land has been seventy-five (75) percent built out. If not so expended within the ten-year period, the then current owners of the property shall, on the last day of such period, be entitled to a pro-rata refund of the remaining fees. Said owners must submit to the city a written request, for the refund within one year of the date of entitlement or the right to receive the refund will be deemed waived and the funds shall remain as property of the city and be used for the general purpose of park land acquisition, design and development as expressed in this article.

Sec. 21-133. Approval and appeal process.

The city shall be responsible for the review and approval of all park land dedication and park development fees submitted in accordance with the requirements of this article.

The city may request the comments and approval of park land dedication or park development fees from the city parks and recreation board for any reason prior to accepting a dedication.

Secs. 21-134—21-144. - Reserved.

Section 3. That except as amended herein all other provisions of Chapter 21 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this ordinance and any other ordinance, the provisions of this ordinance shall control.

Section 4. That all rights and remedies which have accrued in favor of the City under Chapter 21 and any amendments thereto shall be and are preserved for the benefit of the City.

Section 5. Severability. That if any provision, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this ordinance. It is the intent of the City in adopting this ordinance that no portion or provision thereof shall become

inoperative or fails by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this ordinance are declared to be severable.

Section 6. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.

Section 7. Effective Date. This ordinance shall be in full force and effect from and after its passage as required by law, and it is so ordained.

PASSED AND APPROVED on the ____ day of _____ 2018.

CITY OF ALVIN, TEXAS

ATTEST:

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary