

ORDINANCE NO. 094-027

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE #66, OF THE TOWN OF ADDISON , TEXAS BY AMENDING ARTICLE VIII-D, "MXR" ,MIXED USE RESIDENTIAL DISTRICT REGULATIONS, SECTION 5, OPEN SPACE REQUIREMENTS, AS HERETOFORE AMENDED, SO AS TO PROVIDE THAT FEES FOR ACQUISITION OF ACTIVE RECREATION SPACE MIGHT ALSO BE USED FOR IMPROVEMENT OF ACTIVE RECREATION SPACE, ON APPLICATION FROM THE TOWN OF ADDISON; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR A REPEAL CLAUSE.

WHEREAS, the City Council has approved by resolution a Comprehensive Plan to guide the future zoning and land use decisions for the Town of Addison; and

WHEREAS, it has adopted the MXR zoning district in accordance with the goals and policies governing development within the Town of Addison; and

WHEREAS, the City Council now finds that it is necessary to amend the text of the MXR zoning district in order to provide for the improvement of active recreation space which was dedicated in accordance with the requirements of the MXR district;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the Town of Addison, Texas

SECTION 1. That the Comprehensive Zoning Ordinance of the Town of Addison, Texas, be, and the same is hereby amended by amending Article VIII-D, "MXR" Mixed Use Residential District Regulations, Section 5, Open Space Requirements, to read as follows:

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Section 5. OPEN SPACE REQUIREMENTS

A. Greenbelt

Every development shall provide for a linear greenbelt around the perimeter of the site abutting major thoroughfares and easements, or situated so as to provide a continuous network of usable open space. The location and dimensions of the greenbelt shall be determined at the time of concept plan approval or preliminary subdivision plat.

B. Fee for Acquisition and Improvement of Active Recreation Space

Every development in an MXR District shall pay a fee to be earmarked for the acquisition or improvement of active recreation space within the District. The amount of the fee shall be based upon the estimated costs of acquiring and improving land for active recreation space within the District. The amount of the fee per person shall be determined by dividing the estimated costs of land acquisition by the number of persons estimated to reside within the District, for land uses authorized in the Comprehensive Plan. The schedule of fees for acquisition shall be established by resolution of the City Council, which may be amended from time to time.

C. Dedication of Land in Lieu of Fee Payment

In lieu of payment of a fee for active recreation space, the owner of a development within the MXR District may request the City to dedicate land in lieu thereof. Dedication shall be based on a standard of four (4) acres of active recreation space per one thousand (1000) residents in the district. The City shall not accept dedication unless the land is in a linear greenbelt or is centrally located within the District and is of sufficient amount to meet the need for active recreation space by residents of the District. The amount of centrally located land shall not be less than 2.5 acres in size. If the reasonable value of land dedicated is less than the applicable fee, such value shall be credited against the amount of the fee due. The value of dedicated land shall be that assumed for computation of land acquisition costs in calculating the land acquisition fee.

D. Credit for Private Recreation Facilities

Where private recreation facilities are provided for residents of a subdivision or development, a credit may

be granted by the City Council in an amount not to exceed fifty (50%) percent of the fee due or dedication requirement imposed. The Council may establish standards for evaluation of requests for credits for private recreation facilities.

E. Conditions Applicable to Payment of Fee

(1) Time and Method of Fee Determination

The applicable fee or land dedication shall be determined by the City at the time of preliminary plat approval for developments consisting entirely of one-family dwellings, or at the time of approval of the development plan, for all other developments. The amount of the fee due shall be computed by multiplying the fee per dwelling unit by the number of dwelling units in the development, reduced by any credits for land dedication. The fee per dwelling unit shall be determined by reference to a table correlating the number of persons with types of dwelling units.

(2) Time of Collection and Form of Payment of Fee

The fee shall be collected at the time of final plat approval for developments consisting of one-family dwellings and at the time of building permit approval for all other developments. The required fee shall be paid in cash or by cashier's check or other instrument as may be approved by the City Attorney. Payment shall be made to the City Clerk, who shall provide a receipt therefor. Prior to accepting payment, the City Clerk shall verify the amount due by referring to the condition of such payment imposed on the final Development Plan.

(3) Restrictions on Use of Fees Collected

All active recreation space fee payments received pursuant to this Section shall be used solely for the acquisition or improvement of land for active recreation space within the MXR District within which the development is located,

(4) Time Limit on Expenditure of Fees

Fees collected shall be expended for active recreation space, or improvement of active recreation space, as provided in this section within a reasonable period of time of collection, but in no event later than five (5) years from the date of collection of such fees.

(5) Placement of Fees in Trust Fund

Fees received pursuant to this provision shall be deposited in a segregated interest-bearing fund to be

Comprehensive Plan. Except for greenbelt, the land must have a minimum dimension of at least two hundred (200) feet. Dedication requirements may be satisfied in part on land located in a planned development district abutting the MXR District, if such land is functionally tied to open space within the district.

(3) Imposition of Conditions

In its approval of a preliminary plat or Development Plan which proposes active recreation space land dedication, the City shall impose such conditions as deemed necessary to assure that the intent and purposes of this section are satisfied.

(4) Submittal to Governing Body

Land to be dedicated for active recreation space on the preliminary plat or development plan shall be approved initially by the Planning and Zoning Commission and thereafter shall be submitted to the City Council for acceptance of the proposed dedication. No dedication shall be deemed approved without express action of the City Council in the form of a written "acceptance of dedication." Failure of the City Council to execute an acceptance of dedication shall be deemed to be a refusal of the proposed dedication.

(5) Effect of Failure by Governing Body to Accept Dedication

If the City Council refuses to accept the dedication, the final Development Plan shall be returned to the developer for resubmission with (i) appropriate changes to indicate the use of the portion of the property originally proposed to be dedicated for active recreation space; and/or (ii) payment of the applicable in-lieu fee.

SECTION 2. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the city, as heretofore amended, and upon conviction shall be punished by a fine set in accordance with Chapter 1, General Provisions, Section 1.10, General penalty for violations of Code; continuing violations, of the Code of Ordinances for the Town of Addison.

known as the MXR District Active Recreation Space Trust Fund. The use of such fees shall be restricted to purchasing or improving active recreation space directly, as herein provided, or for reimbursement to the City for the advancement and/or expenditure of funds for the purchase or improvement of such Active Recreation Space.

The City may, in its sole discretion, (a) supplement fees collected pursuant to this provision; (b) advance funds to the Trust Fund to enable early development of Active Recreation Space; or (c) expend funds for Active Recreation Space and obtain reimbursement from fees collected in the Trust Fund.

(6) Maintenance of Financial Records

The City Manager shall keep and maintain adequate financial records for the Trust Fund which shall: show the source of disbursement of all fees; account for all fees received; and ensure that the disbursement of fees from such Trust Fund shall be used exclusively for the purposes set forth herein.

(7) Interest on Trust Fund Account

Interest earned by the Trust Fund shall be credited to the Fund account and shall be utilized solely for and limited to the purposes specified for fees of the Trust Fund.

(8) Refunds

A developer may apply for a refund of an in-lieu fee paid pursuant to this provision if the City has failed to purchase or improve active recreation space pursuant to this article within five (5) years of the date of collection of such fee.

F. Conditions Applicable to Dedication of Active Recreation Space Land

(1) Development Plan

Land proposed to be dedicated as active recreation space shall be clearly shown on the preliminary plat for Development Plan and shall be marked accordingly.


(2) Determination of Suitability

The City shall, during the preliminary plat or review process, determine whether the land proposed to be dedicated for active recreation space is of a size, location, dimension, topography, and general character, as appropriate for active recreation space use and whether such site is in conformance with the City's

SECTION 3. That should any paragraph, sentence, sub-division, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provisions thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of this ordinance as a whole.

SECTION 4. That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, on this the 12th day of April, 1994.



MAYOR

ATTEST:



CITY SECRETARY

CASE NO. 1179-Z



DIRECTOR OF DEVELOPMENT SERVICES

OFFICE OF THE CITY SECRETARY

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