

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN OF PROSPER SUBDIVISION ORDINANCE, BY AMENDING SUBSECTION 13.1.3, "EXEMPTIONS," OF SUBSECTION 13.1, "CONVEYANCE OF LAND FOR RECREATIONAL AREAS AND FACILITIES," OF SECTION 13, "PARKS AND OTHER PUBLIC USES," BY ADDING A NEW SUBSECTION 13.1.3.3 THERETO RELATIVE TO THE EXEMPTION OF SENIOR LIVING AND SENIOR CARE FACILITIES FROM THE PROVISIONS OF SECTION 13, "PARKS AND OTHER PUBLIC USES"; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has considered and concluded that senior living facilities and senior care facilities, such as assisted living facilities, senior congregate care facilities, memory care facilities, and nursing homes, should be exempted from the payment of park dedication and park improvement fees since those facilities are not traditional residential facilities that impact park and recreational facility usage in the Town; and

WHEREAS, the Town Council has determined that the following amendments further those interests, and are in the best interests of the citizens and customers in Prosper.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, Subsection 13.1.3, "Exemptions," of Subsection 13.1, "Conveyance of Land for Recreational Areas and Facilities," of Section 13, "Parks and Other Public Uses," of the Town of Prosper Subdivision Ordinance is amended by adding a new Subsection 13.1.3.3, to read as follows:

"13.1 Conveyance of Land for Recreational Areas and Facilities

* * *

13.1.1 Exemptions.

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13.1.3.3 Senior living facilities and senior care facilities, including assisted living facilities, senior congregate care facilities, memory care facilities, and nursing homes; however, independent living and retirement communities or age-restricted housing developments shall be subject to the provisions of this Section."

SECTION 3

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, and any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the Town from filing suit to enjoin the violation, and the Town retains all legal rights and remedies available to it.

SECTION 6

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 26TH DAY OF MAY, 2015.



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney