

ORDINANCE NO. 2019-6-7

An Ordinance of the City of Plano, Texas amending Article XII, Park and Recreation Fee, Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, Texas by amending Sections 16-262, 16-263, 16-264, 16-266, 16-268, 16-269, 16-270, 16-271, 16-272, 16-273; to update fees and make other changes to the Park and Recreation Fee Ordinance; and providing a penalty clause, a repealer clause, a severability clause, a publication clause and an effective date.

WHEREAS, on October 25, 1993 the City of Plano the City Council of the City of Plano, Texas adopted Ordinance No. 93-10-35, creating a Park and Recreation Fee to provide for the acquisition of land and construction of improvements for neighborhood and linear parks within the City; and

WHEREAS, the City of Plano amended Ordinance No. 93-10-35 on September 12, 1994 pursuant to Ordinance No. 94-9-18, and further amended on August 25, 1997 pursuant to Ordinance No. 97-8-29, and further amended on June 25, 2018 pursuant to Ordinance No. 2018-6-8; and

WHEREAS, the Park and Recreation Fee Ordinance is codified in the City of Plano Code of Ordinances Chapter 16, at Article XII; and

WHEREAS, the City hired a third-party appraiser to determine current property values of representative parcels in the City of Plano; and

WHEREAS, the City conducted a study to determine the current cost to develop neighborhood and linear parks, and hired a third party to review methodology; and

WHEREAS, the City Council finds it is in the public interest to amend Sections 16-262, 16-263, 16-264, 16-266, 16-268, 16-269, 16-270, 16-271, 16-272, 16-273 of the Code of Ordinances to correct and update verbiage and adjust the amount of fees collected in service areas for the purpose of acquiring land for and developing neighborhood and linear park facilities.

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

Section I. Sections 16-262, 16-263, 16-264, 16-266, 16-268, 16-269, 16-270, 16-271, 16-272, 16-273 of Article XII, Plano Park and Recreation Fee, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano are hereby amended to read as follows:

“Section 16-262. Purpose and Imposition of Park Fee

A parks and recreation fee (“park fee”) is hereby imposed on residential development for the purpose of assuring that linear and neighborhood park facilities are available and adequate to meet the needs created by such development while maintaining current and

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proposed park and recreation standards pursuant to the Parks, Recreation, Trails & Open Space Master Plan. The park fee is imposed in conjunction with and in addition to subdivision regulations requiring the dedication of neighborhood and linear park land and the construction of neighborhood and linear park improvements for which contributions the property owner shall be reimbursed from proceeds of park fees imposed. The park fee shall be imposed by the city on all residential development, and all fees collected shall be used solely and exclusively for the purpose of acquisition and development of park facilities reasonably attributable to residential dwelling units charged the park fee.

Section 16-263. **Definitions**

For purposes of this article only, the terms that follow shall have the meanings set forth herein. Terms not herein defined shall have those meanings given them by other provisions of the Code of the City of Plano.

1. Applicant. The property owner or duly designated agent of the property owner of land for which approval of a building permit has been requested for residential development.
2. Building. Any enclosed residential structure designed or intended for the support, enclosure, shelter or protection of persons.
3. Building permit. The permit required for new residential construction and/or additions to buildings pursuant to the Code of City of Plano.
4. City. The City of Plano, Texas.
5. City Council. The City Council of Plano, Texas.
6. Development. Any activity that requires the securing of building permit for residential uses.
7. Dwelling. Any building, or portion thereof, designed exclusively for residential occupancy and containing one (1) or more dwelling units.
8. Dwelling Unit. One (1) or more rooms arranged, designed or used as separate living quarters for an individual family, which contains kitchen facilities (only one (1) per dwelling unit permitted), including at least a stove or cooking device and permanently installed sink, plus bathroom facilities.
9. Linear Park. Public land and associated improvements to be used primarily for passive recreation and connecting residential neighborhoods to one another and to public facilities and services, as specified in the park master plan.

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10. Neighborhood Park. Public land, with associated improvements, typically from seven and one-half (7.5) to ten (10) acres in size, and providing both active and passive recreational opportunities for neighborhood residents, as specified in the park master plan.

11. Park Board. The Park and Recreation Planning Board or its successor.

12. Park Facilities. Land and/or facilities used or to be used as a neighborhood or linear park, regardless of location, including both the acquisition of such land, the construction of improvements thereon and the expenditure of funds incidental thereto, including but not necessarily limited to planning, engineering and design of the park and improvements, utility relocation, provision of improvements, provision of pedestrian and vehicular access thereto and purchase of equipment, the need for which are attributable to new residential development.

13. Park Improvements Program. The adopted Community Investment Program, as may be amended from time to time, which identifies those park facilities and their costs, for a period of at least five (5) years, which are to be financed in whole or in part through the imposition of park fees pursuant to this article. The Program shall contain only those facilities which are anticipated to be acquired or developed within the period covered by the Program.

14. Park Master Plan. The official adopted Parks, Recreation, Trails & Open Space Master Plan for the City of Plano and amendments thereto.

15. Property. A legally described parcel of land capable of development pursuant to applicable city ordinances and regulations.

16. Property Owners. Any person, group of persons, firm or firms, corporation or corporations, or any other entity have a proprietary interest in the land on which a building permit has been requested.

17. Residential Development. The development of any property for a dwelling or dwellings, other than motels, hotels, shelter used temporarily for transients and other similar uses, as indicated by an application for a building permit.

18. Zoning Ordinance. The Zoning Ordinance of the City of Plano and including all duly adopted amendments thereto.

Section 16-264. Applicability of Park Fee.

A. This Article shall be uniformly applicable to residential development of property in the City which is or will be served by park facilities as herein defined. This Article does not apply to activities involving the replacement, reconstruction, remodeling,

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rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure or to permits required for backyard cottages or accessory uses.

B. For the purposes of this Article, property is “served by” park facilities when funds collected for such facilities have been constructed in accordance with the Park Master Plan and Park Improvements Program within ten (10) years from the date of collection within the service area in which the property is located.

Section 16-266. Service Areas, Park Improvements Plan and Park Fees.

A. There are hereby established fourteen (14) services areas for park facilities, each of which is designated on the map attached hereto as Exhibit “A” and incorporated herein by reference. Service Area Boundaries may be amended from time to time by ordinance or resolution.

B. The City shall adopt a Park Improvements Program, which identifies the park facilities and their costs, which are to be financed in whole or in part through the imposition of park fees. Park fees may only be spent for park facilities identified in such Program. The Park Improvement Program shall be reviewed and updated as part of the City’s annual budget.

C. The park fee for each service area shall be uniform and shall be determined by dividing the total anticipated costs, including land value and all development costs, of all neighborhood and linear park facilities set forth in the Master Plan by the total population to be served by such facilities. Park fees shall be separately calculated for single-family dwelling units and for multi-family dwelling units, by multiplying the per capita costs of neighborhood and linear park facilities by the number of persons expected to reside within each type of dwelling unit.

D. There is hereby established a park fee for single-family dwelling units in the amount of two thousand sixty five dollars and forty three cents (\$2,065.43), and a park fee for multi-family dwelling units in the amount of one thousand four hundred forty two and sixty six cents (\$1,442.66). The park fees herein established may be amended by ordinance or resolution of the City Council from time to time.

Section 16-268. Use of Park Fee Funds.

A. Park fees collected for each service area pursuant to this article must be used for at least one of the following purposes:

- (1) To repay developers for contributions of land or park improvements pursuant to Section 16-271 hereof;
- (2) To acquire and develop neighborhood and linear park facilities for the service area.

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(3) To reimburse the City for prior acquisition and development of such park facilities; or

(4) To make refunds pursuant to Section 16-270.

B. Park fees collected shall not be used to maintain, repair or operate the existing park system, nor to finance park and recreation activities other than park facilities as herein defined.

C. Nothing in this article shall prevent the City from issuing and utilizing general obligation bonds, revenue bonds, revenue certificates or other certificates of indebtedness as are within the authority of the City in such manner and subject to such limitations as may be provided by law in furtherance of the financing and provision of park facilities as set forth in the park master plan. Park fees paid pursuant to this article, however shall be used for park facilities acquisition and development as defined herein.

Section 16-269. Accounting Procedures.

A. The City shall establish a separate, interest bearing account into which all park fees collected shall be deposited. Funds collected within each service area designated in Exhibit "A" shall be earmarked for expenditure solely for the purposes set forth in Section 16-268 (A).

B. The City shall establish a separate account know as a "Park Fee Program" into which fees used to reimburse the City for prior expenditures for acquisition and development of park facilities are to be deposited upon transfer from service area park fee accounts. Disbursements from the Program shall be utilized solely and exclusively either to reimburse developers who have made contributions to neighborhood and linear park facilities pursuant to Section 16-271 of this Article, or for the purpose of acquiring and developing such facilities.

C. Interest earned on park fees shall be used solely for acquisition and development of neighborhood and linear park facilities or pursuant to 16-268 (a) (4).

D. The City shall establish adequate financial and accounting controls to ensure that park fees disbursed are utilized solely for the purposes and intent of this Article; provided, however, that funds shall be expended within a reasonable period of time, not to exceed ten (10) years from the date park fees are collected.

E. The City shall maintain and keep financial records for park fees, which shall show the source and disbursement of all fees collected in or expended from each service area.

F. The city may supplement the park service area accounts from any available funds. In the event the City discounts park fees due it shall cause to be deposited a sum in the amount of the discount in the account for the park service area in which the fee was collected.

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Section 16-270. Refunds.

A. The current owner of property on which a park fee has been paid may apply for a refund of such fee if:

(1) The property on which a park fee has been paid has not been served by park facilities, as provided in Section 16-204 (B);

(2) The building permit for a residential development, pursuant to which a park fee has expired without substantial completion

(3) Fewer dwelling units are constructed than authorized by a building permit.

B. Only the current owner of property may petition for a refund. A petition for refund may be filed within one (1) year of the event giving rise to the right to claim a refund.

C. The petition for refund must be submitted to the City Manager on a form provided by the City for such purpose. The petition must contain: a certified copy of the latest recorded deed for the subject property; current legal description; the date of payment of the park fee; and a statement of the reasons for which a refund is sought.

D. A refund shall be due under Subsection 16-270 (a)(1) only if the City Manager determines that the total park fee collected for the service area for a period of ten (10) years from the date of collection of the park fee for the development for which a refund is being sought exceeds the total expenditures from the Park Fee Account for the service area for the same period ("excess amount"). The refund amount shall be the development's pro rata share of the excess of fees collected over expenditures, together with interest earned on such amount for the period. The City may periodically compute the difference between expenditures and fees collected for purposes of reviewing refund requests under this subsection. After the expiration of at least one (1) year after refunds are due under this subsection, the City Council may, after notice by publication in the section of a local newspaper reserved for legal notices, and after a public hearing, vote to apply any unclaimed excess amounts to the acquisition or construction of capital facilities which will benefit the area in which the excess amount was collected. When the City Council votes to apply the excess amounts, the right to refund of the applied excess amounts shall be extinguished.

E. Within one (1) month of the date of receipt of a petition for refund, the City Manager must provide the petitioner, in writing, with a decision on the refund request. The decision must include the reasons for the decision. If a refund is due the petitioner, the City Manager shall notify the City's Accounting Department and request that a refund payment be made to petitioner.

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F. Petitioner may appeal the determination of the City Manager to the City Council, pursuant to the process in Section 16-273 with the City Council replacing the City Manager as the decision-maker.

Section 16-271. Reimbursement of developer contributions.

A. The city shall reimburse a developer for the reasonable costs of any neighborhood or linear park land which has been dedicated to and accepted by the city for park facilities, or the reasonable costs of park improvements constructed and accepted by the city, pursuant to a reimbursement contract, subject to guidelines established by the city. For multifamily development projects and for complete phases of a single-family subdivision plat, the developer may elect to apply the entire amount to be reimbursed under this section as a credit against park fees due for the development; provided that the application of the credit does not result in a partial fee for any dwelling unit, in accordance with guidelines established by the city.

B. The amount of the reimbursement shall be based upon standards promulgated by the city, which may be adopted as administrative guidelines. The city shall retain sole discretion to determine whether to accept proposed contributions of park land or park improvements, and the timing and extent of park improvements to be accepted by the city.

C. An applicant shall propose dedication of park land or the construction of park improvements in conjunction with the subdivision platting process or in conjunction with a development agreement. Development agreements implemented pursuant to this subsection shall require City Council approval. The city shall determine the amount of reimbursement due in accordance with the standards referenced in subsection (b). In the event that the applicant is dissatisfied with the city's determination of the amount of reimbursement, he may at his own expense seek an appraisal to be performed by a qualified appraiser acceptable to the city. The city council shall compare the appraisal with the standards established by the city and shall determine the amount to be the subject of the reimbursement contract.

D. The city may promulgate additional rules for execution of reimbursement contracts pursuant to this section by administrative guidelines.

E. In determining the disbursements to be made from the park fee service area and recoupment funds established in section 16-269, the city shall give priority, wherever practicable, to outstanding reimbursement contracts. In any event, reimbursement contracts involving contribution to park land together with the costs of minimum park improvements required to be made as a condition of subdivision approval, shall be fully repaid within five (5) years, and reimbursement contracts for all other park improvements shall be fully repaid within ten (10) years, of the date of execution.

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Section 16-272. Procedures for Updating Park Fees.

A. At least every five (5) years, the Director shall prepare a report to the City Council on park fees. In preparation of such report, the following information shall be reviewed:

(1) A statement summarizing park fees collected and disbursed during the year;

(2) A statement summarizing park facilities acquisition and development and the status thereof for the preceding year;

(3) A statement summarizing the administration and enforcement of park fees; and

(4) A statement and recommendation from the Park Board on any and all aspects of the Park and Recreation Fee and City park needs.

B. The report shall make recommendations, if appropriate, on amendments to the Article, changes in the administration or enforcement of the Article, changes in the park fee rates, changes in the Park Improvements Plan and changes to the Park Master Plan.

C. Based upon the report, and such other factors as the City Council deems relevant and applicable, the City Council may amend the Park and Recreation Fee Article, including but not limited to exhibits and fee schedules. If the City Council fails to take such action, the park fee rates then in effect shall remain in effect. Nothing herein precludes the City Council or limits its discretion to amend the Park and Recreation Fee Articles at such other times as may be deemed necessary.

D. In the review process, the City Council may take into consideration, among others, the following factors: inflation as measured by changes in an appropriate land and construction cost index used by the City; improvement cost increases as measured by actual experience during the year; changes in the design, engineering, location or other elements of proposed park facilities; revisions to the Park Master Plan; changes to the Park Improvements Plan; and changes in the projected mix and/or intensity of residential developments in the City.

Section 16-273. Appeals, Variances, and Exceptions.

A. The property owner or applicant may appeal the following to the City Manager:

(1) The applicability of the park fee;

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- (2) The amount of the fee due;
- (3) The amount of a reimbursement contract pursuant to Section 16-271.

The burden of proof is on the appellant to demonstrate that the park fee is not applicable; or the amount of the fee, credit, or reimbursement was either:

- (1) Not calculated according to the applicable schedule of fees; or
- (2) Not established pursuant to the guidelines established for determining such amounts; or
- (3) The fair market value of land or improvements is such that the basis for the fee is not valid.

The appellant must file a notice of appeal with the City Manager within thirty (30) days following the original written determination. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the park fee due as calculated by the City, the development application shall be processed. The filing of an appeal shall not stay the collection of the fee due, unless a bond or other sufficient surety has been filed.

B. The City Council may grant a variance from any requirements of this Article, upon written request by a property owner subject to the Article, following a public hearing, and only upon a finding that a strict application of such requirement would result in a substantial hardship which is not common to similarly situated property owners.”

Section II. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section III. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section IV. All provisions of the ordinance of the City of Plano, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the ordinances of the City of Plano, codified or uncoded, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section V. This Ordinance shall become effective immediately upon its passage and publication as provided by law.

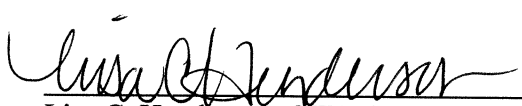
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DULY PASSED AND APPROVED this the 24th day of June, 2019.



Harry LaRosiere, MAYOR

ATTEST:



Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

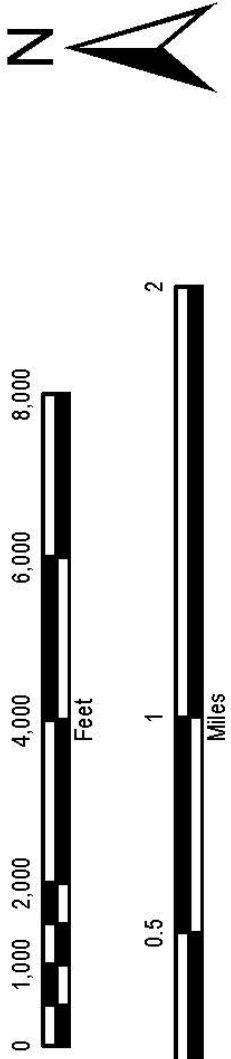
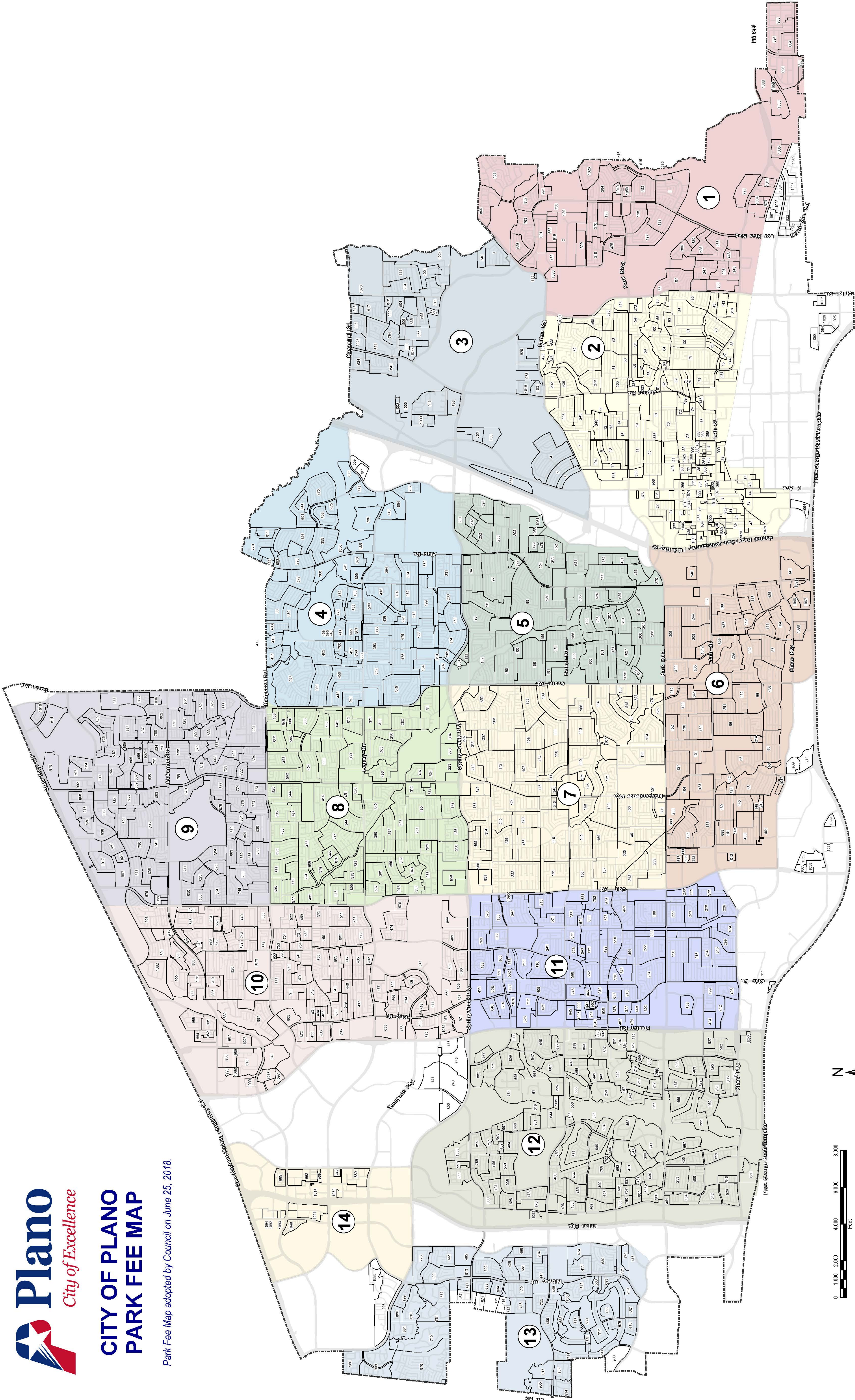


Paige Mims, CITY ATTORNEY



CITY OF PLANO
PARK FEE MAP

Park Fee Map adopted by Council on June 25, 2018.



Date: July, 2018
Source: City of Plano, Parks Division

The Park Fee boundaries are subject to change.