

ORDINANCE NO. ~~25~~374

AN ORDINANCE RELATING TO AMENDMENT OF PARKS, RECREATION, CULTURAL AFFAIRS, ETC., STREETS AND SIDEWALKS AND GENERAL SCHEDULE OF FEES, AMENDING CHAPTERS 38, 50, AND 60 OF THE OKLAHOMA CITY MUNICIPAL CODE, 2010, BY ADOPTING A NEW SECTION 38-1 PARKS DEVELOPMENT FEES, AND AMENDING CHAPTER 50 BY ADOPTING A NEW SECTION 50-14, STREETS SYSTEM DEVELOPMENT FEES, AND AMENDING CHAPTER 60, GENERAL SCHEDULE OF FEES, BY ADOPTING A NEW SECTION 60-38-1 PARKS SYSTEM DEVELOPMENT FEES, AND A NEW SECTION 60-50-1 STREETS SYSTEM DEVELOPMENT FEES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Oklahoma City has and continues to develop and expand the public infrastructure systems of its parks and streets systems; and

WHEREAS, new development increases the impact upon and demand for these public infrastructure systems, and so long as new development continues to occur the functional nexus between development and these impacts and demands upon these public infrastructure systems will continue to accrue, expand, and/or increase; and

WHEREAS, the City proposes to partially fund the capital improvement costs for increases to or expansion of the functional capacity of its parks system through development fees; and

WHEREAS, the Oklahoma City Parks Master Plan documents the need for additional park trail capacity in response to growth; and

WHEREAS, parks development fees will be used to expand or increase the functional service capacity of the parks public infrastructure system including the parks system and the trail system; and

WHEREAS, this ordinance allocates the parks development fees between the parks system and the trails system; and

WHEREAS, the Oklahoma City Parks Master Plan establishes park standards; and

WHEREAS, the Parks and Recreation Director is hereby authorized to determine how the parks development fees may be expended within a service area to benefit new development and the demand for increased or expanded functional service capacity in the service area; and

WHEREAS, increased or expanded functional parks service capacity may be achieved through new or existing parks, or a combination thereof; and

WHEREAS, the City intends to meet the needs of new residents by constructing and expanding regional parks infrastructure, provided, however, the City acknowledges that the construction and expansion of local parks aids in reducing and satisfying regional park demand; and

WHEREAS, this ordinance prescribes a process that provides developers an opportunity to participate in the expansion of local park capacity through the construction of developer-provided private local parks within their development in exchange for which the development would qualify for an exemption from a portion of the parks system portion of the parks development fee; and

WHEREAS, the City also proposes to partially fund the capital improvement costs for increases to or expansion of the functional capacity of its streets system through development fees; and

WHEREAS, although developers construct development specific street improvements and street improvements within developments, new and expanded development creates a need for additional or expanded capital improvements to the streets public infrastructure system; and

WHEREAS, street development fees will be used to expand or increase the functional service capacity of the streets public infrastructure system; and

WHEREAS, the Public Works Director is hereby authorized to determine how streets development fees may be expended within a service area to benefit new development and demand for increased or expanded functional service capacity in the service area; and

WHEREAS, historically, developers provided traffic impact studies as an initial step to analyzing, evaluating and designing the streets public infrastructure system and determining the impact of a specific development on the public improvements to address the new and expanded demand resulting from new development; and streets system; and

WHEREAS, the production of area traffic studies is a more efficient, comprehensive and consistent process for establishing present baseline traffic patterns and needs and for projecting future traffic patterns and needs and for analyzing, evaluating, planning and designing street public improvements to address increased and expanded demand resulting from new development; and

WHEREAS, as part of the streets development fee process the City will finance and street development fees will reimburse the City for area traffic studies thereby eliminating the need for developers to purchase and provide traffic impact studies as a matter of course; and

WHEREAS, based upon factual and historically realized costs for similar system capital improvements, the City has estimated the full cost of the projected impact of new development upon the parks and streets systems and has also considered the potential impact on the continued growth and development of the City of collecting the full cost of the same through development fees; and

WHEREAS, the City has therefore determined that the impact of new development upon the parks and streets systems may be funded through multiple sources, processes, and developer requirements; and

WHEREAS, the City has established service areas for the assessment, collection, and expenditure of development fees, to ensure the capital improvements funded through the development fee increases or expands the functional service capacity of the public infrastructure systems in the service area / benefit area where the development is located; and

WHEREAS, the City Finance Department is hereby directed to create a new fund to account for these development fees; and

WHEREAS, after the close of each fiscal year, the City will present an annual report on the collection, investment, and expenditure of development fees for each service / benefit area and each public infrastructure system, the recovery of costs from development fees, and the estimates of timing of system capacity expansion improvements funded by development fees; and

WHEREAS, development fees are in addition to onsite improvements constructed or provided by developers and property owners and public improvements constructed and dedicated by the developer or property owner to the City for the benefit of the development or pursuant to other development regulations and requirements.

ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OKLAHOMA CITY:

SECTION 1. That Section 38-1 of Article I, Chapter 38 of the Oklahoma City

Municipal Code, 2010, is hereby adopted to read as follows:

CHAPTER 38
PARKS, RECREATION, CULTURAL AFFAIRS, ETC.

Article I. In General

§38-1. Parks development fees.

A. The City hereby adopts parks development fees. As used in this Section 38-1:

1. “Development fee” means any payment of money imposed, in whole or in part, as a condition of approval of any building permit, plat approval, or zoning change, to the extent the fee is to pay for public infrastructure systems that are attributable to new development or expanded or modified development.

2. “Expanded or modified development” is one in which the expansion or modification results in an increased demand or increased impact upon the public infrastructure system as compared to the demand or impact prior to the expansion or modification.

3. “Public infrastructure system” includes any real property improvement, fixture, or accession that is included within the parks systems, including parks, open spaces, trails, bicycle paths, and natural recreation areas and related facilities.

4. “Public infrastructure system costs” means capital improvements that have a projected useful life of at least ten (10) years or more, and that result in an increase or expansion to the functional service capacity of that public infrastructure system.

5. “Development” means any improvement to real property to which square feet of development, as defined in this Section 38-1, is constructed or added.

6. “Square feet of development” means the cumulative number of square feet of additional gross building floor areas of residential development (new, expanded or modified) as determined from the exterior of each floor of all the roofed structure(s) in the development, except that parking structures, garages and other roofed accessory structures including sheds, patios, canopies and porches constructed as part of residential development shall not be included in gross floor area measurements.

(a) The square feet of development shall be established by comparing the cumulative number of square feet of gross building floor area of the entire development existing at the time of the effective date of this ordinance based upon existing building permits and the cumulative number of square feet of gross building floor area of the entire development to exist after completion of the work. The City may verify and correct

any calculation of square feet of development after completion of the work and prior to the issuance of a certificate of occupancy.

(b) Should the owner of a development hereafter obtain a demolition permit and raze all or a portion of an existing development, then the number of square feet of development razed, as indicated on the City demolition permit, will not be included in the cumulative number of square feet of additional gross building floor areas subject to the parks development fees. Provided, however, no credit or refund will be issued if the new development is smaller than the previous development that was demolished.

(c) The developer must present, at the time of obtaining a building permit, such official City documentation as prior building permit(s) or demolition permit(s), necessary to establish previously existing square feet of development. Should the developer not have such official City document, then the developer will have the obligation and burden of proof to provide such other documentation, as may be required by the Development Services Director, to provide clear and convincing evidence of the number of square feet of development constructed or razed in accordance with City ordinances, permits and procedures.

7. "Service area" means a geographic area as defined herein by the City in which the parks public infrastructure system provides service to developments within that service area. Parks service areas, also referred to as benefit areas, are established and set forth on the Parks Service Areas / Benefits Areas Map in Chapter 60, the General Schedule of Fees.

8. "Development Services Director" means the Director of the Oklahoma City Development Services Department or his/her designee.

9. "Residential development" means those developments which are used either as single-family housing, apartment/multifamily housing, condominium/townhouse, mobile home, assisted living, or nursing homes and such other residential developments as determined by the Development Services Director. If the Development Services Director determines that a development includes multiple and clearly severable land uses, then the Development Services Director may designate certain square feet of development to be residential or non-residential and may determine the square feet of residential development to which this parks system development fee is applicable in accordance with such determination.

10. "Parks and Recreation Director" means the Director of the Oklahoma City Parks and Recreation Department or his/her designee.

11. "Developer" means a person or entity that constructs or contracts for the construction of a development.

B. New developments and expanded or modified existing developments shall be charged a development fee for capital improvement costs for increases or expansion to the capacity of public infrastructure systems attributable to that development.

C. Development fees may not be used to fund repairs, maintenance, restorations, or fixes to existing public infrastructure systems. Development fees may only be used to fund refurbishments, alterations, or improvements to existing public infrastructure systems if such refurbishments, alterations, or improvements, result in an increase or expansion in the functional service capacity of the parks system available to serve new or expanded existing growth and development in the applicable service area(s) or benefit area(s).

D. Development fees are hereby imposed to recover or fund the parks public infrastructure system costs, including, but not limited to, the cost of real property interest acquisitions, rights-of-ways, capital improvements, design, construction, inspection, and capital improvement construction administration.

E. A schedule specifying the parks development fee per square feet of development, and the allocation of the parks development fees between the parks system and trails system is established in Chapter 60, the General Schedule of Fees.

F. The City has established service areas for the proper collection and expenditure of parks development fees. Development fees collected in a service area or benefit area will be expended in the affected service area(s) or benefit area(s) to pay or reimburse all or a portion of the public infrastructure system costs to increase or expand the functional service capacity of the public infrastructure system in those service area(s) or benefit area(s) encompassing or affected by the development from which the funds were collected. If a development spans more than one service area or benefit area, then the development fees will be collected and expended proportionately in the respective service area or benefit area to pay all or a portion of the public infrastructure system costs to increase or expand the functional service capacity of the public infrastructure system in that service area or benefit area. The Parks and Recreation Director will determine how collected parks development fees will best be expended to expand the public infrastructure systems to increase the functional service capacity of the public infrastructure system in the service area /benefit area.

G. The parks development fees will be held in an interest bearing account in accordance with City investment policies and practices. Interest earned in a parks development fund collected from a service area or benefit area shall only be spent for public infrastructure system costs that expand or increase the functional service capacity of the public infrastructure system in that service area or benefit area encompassing the development from which the funds were collected. If a development spans more than one service area or benefit area, then the interest earned on development fees will be expended proportionately in the respective service area or benefit area to pay all or a portion of the public infrastructure system costs to increase or expand the functional service capacity of the public infrastructure system in that service area or benefit

area.

H. Assessments of parks development fees shall be in writing and a copy shall be provided to the developer and property owner(s) affected, as such names and addresses of the property owner(s) are provided by the developer. The assessment will specify the purpose of the development fee, the service area or benefit area(s) for which the development fee is being collected, the basis for calculation of the development fee, and the amount of the development fee.

I. A parks development fee collected for one purpose shall not be devoted to another purpose except as hereinafter provided. If the purpose, component capital improvement plan, or service area or benefit area is changed or redrawn, or if a development spans more than one service area or benefit area, the development fees collected prior to the change shall be spent proportionately pursuant to the new purpose or within the new service area or benefit area(s) that encompass the development at the time of expenditure from which the fee was originally collected.

J. If the City determines that the development fees as collected within a service area or benefit area are no longer needed or desired for the purpose for which they were collected, the City may either refund the collected fees to the current property owners of the development from which the fees were paid (or to the payor(s) of such fees to the extent allowable by state law, as amended from time to time), or proceed through the hearing process to adopt a new purpose for the fees. Should a refund be issued under this Subsection (J), then a single check will be issued in the names of all the current property owners as ownership is then shown in the records of the County Assessor (or to the payor(s) of such fees to the extent allowable by state law, as amended from time to time).

K. The developer or building permit applicant must pay and the City will collect the parks development fees at the time of and as a pre-condition to issuing any building permit and any supplemental building permit. Development fees must be paid at the time of the issuance of a building permit or supplemental building permit for the development or a building permit or supplement will not be issued. No development may be constructed until a building permit is issued. The permit applicant may request and the Development Services Director may grant a deferral of the payment of the parks development fees until the time of the issuance of the certificate of occupancy, provided, however, the parks development fees must be paid prior to issuance of the certificate of occupancy at the then current rate. The development fees for each development will be determined and calculated based upon the square feet of development as defined in this Section 38-1 and the rate per square foot of development as set forth in Chapter 60, the General Schedule of Fees. Any exemption expressly provided in §38-1(L) or (T) or (U) below will be applied to the above calculation.

1. Should the building permit applicant dispute the determination of the City staff of the calculation of square feet of development, or the number of square feet of development designated as residential, and/or the assessment area or service area/benefit area in which the

development is situated, or any other basis for the City's calculation of the fee, then the developer must, within thirty (30) days of such calculation, submit:

- (a) a copy of the building permit application, and any previously issued building permits, demolition permits, and certificates of occupancy
- (b) the determination by City staff,
- (c) a copy of the final approved development plan for that development, and
- (d) a written statement, not to exceed three pages, explaining the applicant's calculations and basis for the appeal.

Should the building permit applicant provide such written notice of the appeal with all required documents to the Development Services Director within thirty (30) days, the Development Services Director will review the appeal and provide the building permit applicant an opportunity to be heard, within ten (10) days of the appeal filing, in the form of a meeting or teleconference. Subsequent to the hearing, the Development Services Director will make a written determination. Notice of the determination may be issued by electronic mail or by paper copy and will be sent to the building permit applicant. Failure of the building permit applicant to timely appeal within thirty (30) days will be deemed a waiver of the right to appeal and agreement as to the determination of the parks development fees by City staff.

2. Should the building permit applicant dispute the determination of the Development Services Director of the calculation of square feet of development, or the number of square feet of development designated as residential, and/or the assessment area or service area/benefit area in which the development is situated, or any other basis for the City's calculation of the fee, then the developer must, within thirty (30) days of such calculation, submit formal written notice of appeal to the Board of Adjustment in accordance with Board of Adjustment policies also including:

- (a) a copy of the building permit application and any previously issued building permits, demolition permits, and certificates of occupancy,
- (b) the determination of the Development Services Director,
- (c) a copy of the final approved development plan for that development, and
- (d) a written statement, not to exceed three pages, explaining the applicant's calculations and basis for the appeal.

Should the building permit applicant provide such written notice of the appeal of the determination of the Development Services Director with all required documents to the Development Services Director within thirty (30) days, then the Development Services Director will use his/her best efforts to docket such appeal on the next available agenda of the Board of Adjustment in accordance with the Open Meetings Act and City docketing procedures. The Board of Adjustment will review the appeal and provide the building permit applicant an opportunity to be heard at the public meeting of the Board of Adjustment. At the meeting or a

subsequent meeting, the Board of Adjustment will make a determination by a majority vote of the members of the Board present at that meeting wherein a quorum is present. The Board of Adjustment may determine the number of square feet of development, or the number of square feet of development designated as residential, and the assessment area or service area/benefit area in which the development is situated, or the correct development fee to be assessed based on the calculations herein. The Board of Adjustment may not waive development fees, issue refunds, or grant credits or exemptions. Notice of the determination of the Board of Adjustment will be sent by the Development Services Director to the building permit applicant. This determination of the Board of Adjustment is the final decision of the City. Failure of the building permit applicant to timely appeal within thirty (30) days of the Board of Adjustment decision will be deemed a waiver of the right to appeal and agreement as to the determination of the parks development fees by the Board of Adjustment.

3. Prior to issuing an occupancy permit, the City may compare the square feet of development as actually constructed and the square feet of development as authorized in the building permit. The City may verify and correct any calculation of square feet of development after completion of the work prior to the issuing a certificate of occupancy. Should the square feet of development as constructed exceed the square feet of development as authorized in the building permit, then the developer or property owner must obtain a supplement to the building permit and any additional parks development fees must be paid prior to the issuance of the certificate of occupancy. For any parks development fee deferred until issuance of the certificate of occupancy and any additional parks development fee due for a supplemental building permit as provided herein, the developer or property owner must pay the parks development fees in effect at the time of the issuance of the certificate of occupancy or any supplemental permit respectively. The building permit applicant will have the same right to appeal the additional development fees under the same time limitations, requirements and procedures as set forth in Subsection (K)(1) and (2) above.

4. No refund of parks development fees will be issued as a result of the failure of the building permit applicant to construct all of the square feet of development authorized in the building permit. Provided, however, the subject property will be credited for the development fee payment received.

L. The City may enter into a written agreement with a developer to construct or provide one or more private local parks to relieve the impact of that development on the functional service capacity of the public infrastructure system within the designated service area(s) or benefit area(s) as provided herein. Subject to the execution of the written agreement, the properties within the subject development will tentatively qualify for a partial exemption (“existing local park exemption”) to the parks system portion of the parks development fee as set forth in Chapter 60, the General Schedule of Fees. Provided, however, the developer or property owner must pay the trails system portion and the non-exempt parks system portion of the parks development fee for the new, expanded and modified developments in that development.

1. The written agreement will require the developer to construct and complete the developer-provided private local park and provide a contingency for a park completion assurance, as provided and/or required herein, as a guarantee of completion of the developer-provided private local park and as a guarantee of payment of any parks development fees determined to be due and owing.

2. Should the developer fail to construct and complete the developer-provided private local park in accordance with the written agreement before fifty (50%) percent of the platted lots within the development have received building permits, then the developer must provide the aforementioned park completion assurance as set forth in subparagraph 3 below and no further building permits will be issued for the development until the developer has completed the developer-provided private local park.

3. The park completion assurance will be in the amount of one hundred and fifty (150%) percent of the estimated construction cost of the developer-provided private local park as stated in the written agreement. The park completion assurance must guarantee the developer or its surety will immediately construct and complete the developer-provided private local park in accordance with the written agreement. The park completion assurance will be in the form of either: (a) a subdivision bond or (b) a performance bond.

4. Should the developer not construct and complete the developer-provided private local park before sixty (60%) percent of the platted lots within the development have received a building permit or within twelve (12) months, whichever comes first, then the City may suspend issuance of building permits for the development until the developer-provided private local park is constructed and completed in accordance with the written agreement. In addition, the City may, in its sole option, enforce the park completion assurance by either: (a) demanding and requiring the surety to construct and complete the developer-provided private local park within six (6) months of demand by the Parks and Recreation Director or (b) the City may cause the developer-provided private local park to be constructed and completed by the City or by City contractors.

5. Should the developer or the surety not complete construction of the developer-provided private local park as provided in the written agreement or should the City cause the developer-provided private local park to be constructed, then the City may recover and collect from the developer and/or the surety: (a) City administrative costs and expenses related to the construction or completion of the developer-provided private local park, (b) City and contractor costs and expenses for construction or completion of the developer-provided private local park, (c) any administrative costs, attorney fees, court costs, and litigation costs to enforce the park completion assurance, and (d) any parks development fees determined to be due and owing.

6. Provided, however, upon the request and demonstration of good cause by the developer, the Development Services Director may, in his or her sole discretion, grant an extension of the time for the developer to construct and complete the developer-provided private local park until sixty-five (65%) percent of the platted lots within the subdivision have received building permits before the park completion assurance is enforced as stated above. In addition, the City may suspend issuance of building permits for the development until the developer-provided private local park is constructed and completed in accordance with the written agreement.

7. The Parks and Recreation Director may approve a written agreement for a developer to provide a private local park in a particular development; however, the Director may docket any agreement for a developer-provided private local park for formal consideration by the City Council. The Parks and Recreation Director is authorized to approve as complete, on behalf of the City, the developer-provided private local park in accordance with this ordinance; however, the Director may docket such determination for formal consideration by the City Council.

8. As a precondition of an existing local park exemption, the developer must timely comply with the following process, requirements and standards:

(a) The developer will construct and provide for the maintenance of a private developer-provided local park. The developer-provided private local park must be maintained in a clean and safe condition and in accordance with the Oklahoma City Municipal Code by the homeowners association or property owner's association without cost, expense or charge to the City. Should the homeowner's association or property owner's association fail to maintain this developer-provided private local park or any park public infrastructure system, improvements, or amenities therein in a clean and safe condition or in accordance with the Oklahoma City Municipal Code, then each property owner in this development does hereby waive its right to protest or object to the creation of an assessment district and irrevocably agree and consent to the creation by The City of Oklahoma City of an assessment district to fund and finance the current and future operation, maintenance and repair of the developer-provided private local park and any public park infrastructure system, improvements, and amenities therein or other substitute infrastructure, improvements or amenities as determined by the Parks and Recreation Director. The City does not and will not have any obligation to create an assessment district or to provide funds, labor, equipment or resources for operation or maintenance of a developer-provided private local park, now or in the future. The developer will expressly note this ordinance and the developer's exercise of this exemption on the plat to notify property owners and their successors of their obligations hereunder and assent to the possible creation of an assessment district.

(b) The plans for the developer-provided private local park must be designed by a landscape architect, or professional civil engineer, or Certified Playground Installer, or other professionals in accordance with the Oklahoma State Architectural and Registered Interior Designers Act (59 O.S. 2011 46.1 et seq.) subject to all exemptions as put forth in 59 O.S. 46.28, and any amendments or additions thereto. The plans for the developer-provided private local park must be approved by the Parks and Recreation Director prior to approval of the plat for the development.

(c) The minimum cumulative area of the developer-provided private local park must be at least 3.5% of the gross area of the plat.

(d) Should the developer fail to perform certain required actions then the existing local park exemption will not apply and the full parks development fees will be immediately and retroactively due and owing.

(1) If a developer or another applies for a building permit before:

(A) a written agreement is approved, or

(B) an express provision is included in the final approved plat requiring the developer-provided private local park to be maintained by the developer or the homeowners association or property owners' association,

as provided in this ordinance, then the exemption will not apply to such property and no refund or credit will be issued for subsequent compliance.

(2) In addition, if the developer fails to construct the developer-provided private local park as provided in the written agreement, then the exemption will not apply and such local park portion of the parks development fee will be immediately and retroactively due and owing for all lots in the development at the rate applicable at the time of the certificate of occupancy, and no further certificates of occupancy will be issued for the development until all parks development fees due and owing are paid in full.

(e) The developer-provided private local park must be located within the plat and within the development such that required amenities are within % of a mile radius from every dwelling in the development; however, the developer may propose a developer-provided private local park composed of a series of park areas and amenities within the plat and the development, if needed to comply with this distance requirement.

(f) Each developer-provided private local park must have at least two (2) of any combination of the following park amenities:

- (1) playground equipment structures.
- (2) park shelters or multiple pavilions.
- (3) informal practice fields or multiple open-spaces.
- (4) individual sitting areas and picnic tables.
- (5) walking paths.
- (6) outdoor fitness workstations or exercise facilities.
- (7) splash pad or swimming pool or other aquatic amenity that can accommodate groups of children and residents.
- (8) clubhouse that is regularly available to residents of the development for use with recreation and gathering opportunities such as social events, neighborhood parties or festivals, neighborhood HOA meetings, and similar events.
- (9) other amenity which qualifies as a local park amenity as might typically be found in local public City of Oklahoma City neighborhood parks.

(g) Each park area in a series of park areas must also have any one of the following amenities:

- (1) playground equipment;
- (2) sitting area as defined herein; or
- (3) walking paths or exercise facilities.

The above listed park amenities are generally described in Subsections (h) and (i) below, however, are subject to additional or different amenities and expansions of such definitions as may be approved by the Parks and Recreation Director.

(h) As used in this Section 38-1:

(1) playground equipment structures as used herein shall mean climbers, swings, slides or such other facilities approved by the Parks and Recreation Director in accordance with the standards in this Section 38-1. At a minimum playground equipment structures must include at least two climbers, four swings (with two single axis toddler bucket swings in one bay and two single axis belt swings in a separate bay), and two slides. Provided, however, none of the playground equipment structures may be constructed such that surface water collects or discharges under the playground equipment structures.

(2) park shelter or pavilion means at least ten feet by ten feet masonry

veneer, finished metal or natural preservative wood structure on a concrete pad with a roof of composition type shingles common to the community and applicable community covenants.

(3) informal practice fields means relatively flat areas of open field in a well-drained area where multiple various sports teams may practice at different times. Open-space means relatively flat areas of open field in a well-drained area where groups may congregate to picnic, play or rest. Provided, however, areas designed or designated drainage or detention areas that do not drain within a reasonable time after rainfall events, retention areas or which areas otherwise retain water may not be included in informal practice fields or open-space.

(4) individual sitting areas means a collection of multiple benches on concrete pads in an area provided with shade trees, which at maturity will shade all of the benches. Picnic tables means multiple large family-sized tables with benches made of concrete, coated-metal or other durable material on concrete pads in an area provided with shade trees, which at maturity will shade all of the tables. Provided, however, none of the sitting areas or picnic tables may be constructed such that surface water collects or stands under the sitting area or picnic tables.

(5) walking paths mean concrete, decomposed granite or asphalt pedestrian paths of at least $\frac{1}{2}$ mile in length with a minimum width of five feet, turnabouts at terminal ends, and meeting ADA standards or providing reasonable ADA accommodation therefor. The paths must be concrete or asphalt, provided the Parks and Recreation Director may permit up to 20% of the paths may be granular (decomposed granite). Provided, however, none of the paths may be constructed such that surface water collects or stands on the path.

(6) multiple outdoor fitness workstations means an organized series of weather resistant structures in an area provided with shade trees, which at maturity will shade all of the workstations, where walkers or joggers may stop and perform exercises or stretching activities as part of a pre-designed regiment. Exercise facilities mean basketball courts, volleyball courts, soccer fields, or baseball fields or such additional or different facilities as approved by the Parks and Recreation Director. Provided, however, none of the outdoor fitness workstations or courts may be constructed such that surface water collects or stands under the workstation or on the court. Further the fields must be relatively flat well-draining area where multiple various sports teams may practice at different times.

(7) pool means an indoor or outdoor, in-ground container filled with water to enable swimming or other leisure activities that is compliant with City-County Health Department regulations and provides capacity adequate to serve, at any time, no less than one (1%) percent of the total estimated population of the

completed development as planned. For purposes of estimating the population of the development under this subsection, the population shall be deemed to be 2.55 persons per residential lot.

(8) splash pad means a splash pad or spray pool for water play that has little or no standing water that is compliant with City-County Health Department regulations and provides capacity adequate to serve, at any time, no less than one (1%) percent of the total estimated population of the completed development as planned. For purposes of estimating the population of the development under this subsection, the population shall be deemed to be 2.55 persons per residential lot.

(i) Additionally these parks amenities must meet the following standards:

(1) All equipment, facilities, and other amenities must be constructed and maintained in accordance with the Consumer Product Safety Commission (CPSC) design standards published in the "Public Playground Safety Handbook" Publication 325, and any amendment or addition thereto, or in accordance with alternative design standards as may be approved by the Parks and Recreation Director.

(2) All equipment, facilities, and other amenities must be constructed and maintained in accordance with the American Society for Testing and Materials (ASTM) design standards, and any amendment or addition thereto, published in the "Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use" (ASTM F1487-11), or in accordance with alternative design standards as may be approved by the Parks and Recreation Director.

(3) All equipment, facilities, and other amenities manufacturers must be certified by the International Playground Equipment Manufacturer's Association (IPEMA), or in accordance with alternative certifying entities as may be approved by the Parks and Recreation Director.

(4) All equipment, facilities, and other amenities and areas must be constructed and maintained in accordance ADA standards for accessibility, or pursuant to reasonable accommodations therefore.

(5) All playground equipment structures must be constructed and maintained with at least three-inch round metal posts.

(6) All slides must be plastic or metal.

(7) All playground equipment must consist of a composite play structure designed for ages 2-5 or ages 5-12 and meet the standards in this ordinance.

(8) All playground structure areas must have transition areas.

(9) All playground equipment structures must be installed and maintained by a Certified Playground installer, or an installer as approved by the Parks and Recreation Director.

(10) All developer-provided private local parks must have a welcome sign:

(a) indicating the age appropriateness of the playground equipment and structures; and

(b) indicating other safety requirements to comply with Subsections (i)(1)–(3) and any other recommendations of the Parks and Recreation Director.

(11) The surface under all playground equipment structures must meet at least the following standards:

(A) AS1M F1292 Specification for Impact Attenuation of Surfacing Materials within the Use Zone of the Playground Equipment, and any amendment or addition thereto;

(B) ASTM 1951 Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment, and any amendment or addition thereto;

(C) surfacing must be a minimum wood fiber or a unitary surface and meet the standards in this ordinance;

(D) borders must be either concrete, concrete block or plastic designed for this specific purpose and meet the standards in this ordinance; and

(E) at least 12 inches of approved safety surfacing materials to absorb fall impacts from heights and meet the standards in this ordinance.

(j) The plat must identify the developer-provided private local park and the development(s) or lot(s) to which this existing local park exemption may apply. The plat must be signed by the Parks and Recreation Director. The plat must incorporate by reference the written agreement for the developer-provided private local park to be operated and maintained by the homeowner association or property owners' association as a condition of the plat approval and as a condition precedent to issuance of building permits.

9. Any existing local park exemption granted hereby shall be the only adjustment provided to the developer or for the development. No other or additional adjustment, refund, or credit will or may be granted, carried over or transferred to that or a different development, a subsequent development, a subsequent change to that development, to that developer, or against a development fee for a different system. Should the developer fail to construct the developer-provided private local park as provided in the written agreement, then any existing local park exemption will not apply and such local park portion of the parks development fee will be immediately and retroactively due and owing for all lots in the development.

M. Reserved.

N. No credit or adjustment shall be carried over from one development to another development at a different location. No credit or adjustment will be carried over from one

development to a subsequent development at the same location, unless the development fee collected previously is for the same purpose, making any subsequent collection a repeat charge for the same purpose.

O. Development fees shall be deemed dedicated and restricted revenues and therefore shall require accounting for development proceeds as restricted funds. Interest earned on development fees shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of development fees under the provisions of this Section 38-1. Development fees and the interest earned thereon will be deemed to have been expended within the service area / benefit area pursuant to a first in, first out accounting process. The accounting records and details thereof shall be maintained as public records of the municipality, be accessible to the public through open records requests (to the extent required by and in accordance with the Oklahoma Open Records Act and applicable City ordinances), and include at least the following information, as relates both to each development capital project or service area or benefit area and each public infrastructure system for each development capital project or within each service area or benefit area:

1. The receipt of development fees;
2. The development capital project or service area or benefit area(s) from which the development fee was collected;
3. The accumulation of interest on the development fee funds;
4. The type of public infrastructure system for which the funds were collected;
5. The cost of the capital improvements to which the development fees were applied; and
6. The dates when development fee funds were expended to fund, or applied to reimburse, the cost of capital improvements to public infrastructure systems.

P. Reserved.

Q. Reserved.

R. Parks system development fees may continue to be collected until the City Council declares by formal resolution that the public infrastructure system for the parks system has been fully funded and that expanded or modified development will have no additional impact on the parks public infrastructure system. The City may terminate collection of such development fees at any time by formal resolution.

S. No refund or credit will accrue or be given for any existing or future development that reduces square feet of development or fails to construct square feet of development as authorized by a building permit or supplement.

T. A development located within an existing local park area as shown on the Existing Local Park Area Map in Chapter 60, the General Schedule of Fees, will be exempt from a portion of the parks system parks development fees (“existing local park exemption”) as set forth in Chapter 60, the General Schedule of Fees. Provided, however, the developer or property owner located within an existing local park area must pay the trails system and the non-exempt portion of the park system parks development fees in order to obtain building permits within the development.

U. Developments that have previously approved preliminary or final plats and that have completed developer-provided private local parks prior to the effective date of this ordinance, may qualify for an existing local park exemption to the parks system portion of the parks development fee as set forth in Chapter 60, the General Schedule of Fees, but only to the extent that the previously installed developer-provided private local parks have been inspected and determined by the Parks and Recreation Director as meeting or exceeding the exemption standards put forth in subsection L. Provided, however, the developer or property owner must pay the trails system portion and the non-exempt parks system portion of the parks development fee prior to issuance of building permits for the new, expanded or modified developments in that development. The Developer must apply for the existing local park exemption with the Parks and Recreation Director and provide adequate documentation of the materials, installation, and continued maintenance of the developer-provided private local park. After inspection and determination the developer-provided private local park complies with written agreement and ordinance requirements, the existing local park exemption will apply to the residential structures within that development. Any exemption granted hereby shall be the only adjustment provided to the developer or the property owner for the development. No other or additional adjustment, refund, or credit will or may be granted, carried over or transferred to that or a different development, a subsequent development, a subsequent change to that development, to that developer, or against a development fee for a different system.

SECTION 2. That Section 50-14 of Article I, Chapter 50 of the Oklahoma City Municipal Code, 2010, is hereby adopted to read as follows:

CHAPTER 50

STREETS AND SIDEWALKS

Article I. In General

§50-14. Streets development fees.

A. The City hereby adopts streets development fees. As used in this Section 50-14:

1. “Development fee” means any payment of money imposed, in whole or in part, as

a condition of approval of any building permit, plat approval, or zoning change, to the extent the fee is to pay for public infrastructure systems that are attributable to new development or to expanded or modified development.

2. “Expanded or modified development” is one in which the expansion or modification results in an increased demand or increased impact upon the public infrastructure system as compared to the demand or impact prior to the expansion or modifications.

3. “Public infrastructure system” includes any real property improvement, fixture, or accession that is included within the street systems, including roads, streets, boulevards, bridges, sidewalks, bicycle routes, drainage, traffic signals and systems, traffic control devices and signage, traffic calming devices, landscaping associated with street rights-of-way, and any local components of county, state, or federal highways to the extent and to the proportionate cost that the local components are not funded by state or federal grants or other state or federal permanent funding sources.

4. “Public infrastructure system costs” means capital improvements that have a projected useful life of at least ten (10) years or more, and that result in an increase or expansion to the functional service capacity of that public infrastructure system.

5. “Development” means any improvement to real property to which square feet of development, as defined in this Section 50-14, is constructed or added.

6. “Square feet of development” means the cumulative number of square feet of additional gross building floor area of development (new, expanded or modified) as determined from the exterior of each floor of all roofed structures(s) in the development, except that parking structures, garages and other roofed accessory structures including sheds, patios, canopies and porches constructed as part of developments shall not be included in gross building floor area measurements.

(a) The square feet of development shall be established by comparing the cumulative number of square feet of gross building floor area of the entire development existing at the time of the effective date of this ordinance based upon existing building permits and the cumulative number of square feet of gross building floor area of the entire development to exist after completion of the work. The City may verify and correct any calculation of square feet of development after completion of the work and prior to the issuing a certificate of occupancy.

(b) Should the owner of a development hereafter obtain a demolition permit and raze all or a portion of an existing development, then the number of square feet of development razed as indicated on the City demolition permit will not be included in the cumulative number of square feet of additional gross building floor areas subject to the streets development fees. Provided, however, no credit or refund will be issued if the new

development is smaller than the previous development that was demolished.

(c) The developer must present, at the time of obtaining a building permit, such official City documentation as prior building permit(s) or demolition permit(s), necessary to establish previously existing square feet of development. Should the developer not have such official City document, then the developer will have the obligation and burden of proof to provide such other documentation, as may be required by the Development Services Director, to provide clear and convincing evidence of the number of square feet of development constructed or razed in accordance with City ordinances, permits and procedures.

7. “Service area” means a geographic area defined by the City in which the streets public infrastructure system provides service to developments within that service areas. Streets service areas, also referred to as benefit areas, are established and set forth on the Streets Service Areas / Benefits Areas Map in Chapter 60, the General Schedule of Fees.

8. “Development Services Director” means the Director of the Oklahoma City Development Services Department or her/his designee.

9. “Customer-Oriented Low” means those developments containing one of the land uses or classes of land uses categorized as “customer-oriented low” in the Streets Development Fee Land Use Categories Table.

10. “Customer-Oriented Moderate” means those developments containing one of the land uses or classes of land uses categorized as “customer-oriented moderate” in the Streets Development Fee Land Use Categories Table.

11. “Customer-Oriented High” means those developments containing one of the land uses or classes of land uses categorized as “customer-oriented high” in the Streets Development Fee Land Use Categories Table and all customer-oriented land uses not specifically included in Customer-Oriented Low or Customer-Oriented Moderate.

12. “Office/Institutional/Lodging” means those developments containing one of the land uses or classes of land uses categorized as “office/institutional/lodging” in the Streets Development Fee Land Use Categories Table.

13. “Industrial” means those developments containing one of the land uses or classes of land uses categorized as “industrial” in the Streets Development Fee Land Use Categories Table.

14. “Residential” means those developments containing one of the land uses or classes of land uses categorized as “residential” in the Streets Development Fee Land Use Categories Table.

15. “Planning Director” means the Director of the Oklahoma City Planning Department or her/his designee.

16. “Public Works Director” means the Director of the Oklahoma City Public Works Department or his/her designee.

17. “Developer” means a person or entity that constructs or contracts for the construction of a development.

17.18. “Existing Infrastructure Plan” means all applicable funding sources for infrastructure improvements of the City of Oklahoma City or its Trusts, including but not limited to sources such as Maps 4, Better Streets / Safer City, General Obligation Bonds, Plan OKC, and the City’s Comprehensive Plan.

B. New developments and expanded or modified existing developments shall be charged a development fee for capital improvement costs for increases or expansion to the capacity of public infrastructure systems attributable to that development.

C. Development fees may not be used to fund repairs, maintenance, restorations, or fixes to existing public infrastructure systems. Development fees may only be used to fund refurbishments, alterations, or improvements to existing public infrastructure systems if such refurbishments, alterations, or improvements, result in an increase or expansion in the functional service capacity of the streets system available to serve new or expanded existing growth in the applicable service area(s) or benefit area(s).

D. Development fees are hereby imposed to recover or fund the streets public infrastructure system expansion costs, including, but not limited to, the cost of real property interest acquisitions, rights-of-ways, capital improvements, design, construction, inspection, and capital improvement construction administration. As used herein, design also includes preliminary design which can include preliminary engineering and other activities and analyses, including but not limited to: environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analysis, hydraulic analysis, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, and general estimates of the types and quantities of materials, and other work needed to establish parameters for the final design of capital improvements for the streets public infrastructure system.

E. A schedule specifying the streets development fee for various land uses per square foot of development is established in Chapter 60, the General Schedule of Fees. Should the primary land use of a development not fit within a general land use category set forth in the Street Development Fee Land Use Categories Table, then the Development Services Director is authorized to determine the appropriate land use category to which the primary land use of the development best fits, subject to the appeal process in Subsection K below.

F. The City has established service areas for the collection and expenditure of streets development fees. Development fees collected in a service area or benefit area will be expended in the affected service area(s) or benefit area(s) to pay or reimburse all or a portion of the public infrastructure system costs to increase or expand the functional service capacity of the public infrastructure system in those service area(s) or benefit area(s) encompassing or affected by the development from which the funds were collected. If a development spans more than one service area or benefit area, then the development fees will be collected and expended proportionately in the respective service areas to pay all or a portion of the public infrastructure system costs to increase or expand the functional service capacity of the public infrastructure system in that service area or benefit area. The Public Works Director will determine how collected streets development fees will best be expended to expand the public infrastructure systems to increase the functional service capacity of the public infrastructure system in the service area / benefit area.

G. The streets development fees will be held in an interest bearing account in accordance with City investment policies and practices. Interest earned in a streets development fund collected from a service area or benefit area shall only be spent for public infrastructure system costs that expand or increase the functional service capacity of the public infrastructure system in that service area or benefit area encompassing the development from which the funds were collected. If a development spans more than one service area or benefit area, then the interest earned on development fees will be expended proportionately in the respective service area or benefit area to pay all or a portion of the public infrastructure system costs to increase or expand the functional service capacity of the public infrastructure system in that service area or benefit area.

H. Assessments of streets development fees shall be in writing and a copy shall be provided to the developer and property owner(s) affected, as such names and addresses of the property owner(s) are provided by the developer. The assessment will specify the purpose of the development fee, the service area or benefit area(s) for which the development fee is being collected, the basis for calculation of the development fee, and the amount of the development fee.

I. A streets development fee collected for one purpose shall not be devoted to another purpose except as hereinafter provided. If the purpose, component capital improvement plan, or a service area or benefit area is changed or redrawn, or if a development spans more than one service area or benefit area, the development fees collected prior to the change shall be spent proportionately pursuant to the new purpose or within the new service area or benefit area(s) that encompass the development at the time of expenditure from which the fee was originally collected.

J. If the City determines that the development fees as collected within a service area or benefit area are no longer needed or desired for the purpose for which they were collected, the City may either refund the collected fees to the current property owners of the development from which the fees were paid (or to the payor(s) of such fees to the extent allowable by state

law, as amended from time to time), or proceed through the hearing process to adopt a new purpose for the fees. Should a refund be issued under this Subsection (J), then a single check will be issued in the names of all the current property owners as ownership is then shown in the records of the County Assessor (or to the payor(s) of such fees to the extent allowable by state law, as amended from time to time).

K. The developer or building permit applicant must pay and the City will collect the streets development fees at the time of and as a pre-condition to issuing a building permit and any supplemental building permits. Development fees must be paid at the time of the issuance of a building permit or supplemental building permit for the development or the building permit or supplement will not be issued. No development may be constructed until a building permit is issued. The permit applicant may request and the Development Services Director may grant a deferral of the payment of the streets development fees until the time of the issuance of the certificate of occupancy, provided, however, the streets development fees must be paid prior to issuance of the certificate of occupancy at the then current rate. The development fees for each development will be determined and calculated based upon the square feet of development as defined in this Section 50-14, the streets development fee Assessment Area Classification as set forth on the Development Fee Assessment Areas Category Map in Chapter 60, the General Schedule of Fees, the rate per square foot of development as set forth in Chapter 60, General Schedule of Fees, and the land use(s) of the development in this Section 50-14. For a development with multiple land uses (as defined in this Section 50-14), the square feet of development will be determined for each land use and the development fees will be the cumulative total of all square feet of development for each land use within the development.

1. Should the building permit applicant dispute the determination of the City staff of the calculation of square feet of development, or the number of square feet of development designated in a Land Use Category, and/or the assessment area or service area/benefit area in which the development is situated, or any other basis for the City's calculation of the fee, then the building permit applicant must, within thirty (30) days of such calculation, submit:

- (a) a copy of the building permit application and any previously issued building permits, demolition permits, and certificates of occupancy,
- (b) the determination by City staff,
- (c) a copy of the final approved development plan for that development, and
- (d) a written statement, not to exceed three pages, explaining the applicant's calculations and basis for the appeal.

Should the building permit applicant provide such written notice of the appeal with all required documents to the Development Services Director within thirty (30) days, the Development Services Director will review the appeal and provide the building permit applicant an opportunity to be heard, within ten (10) days of the appeal filing, in the form of a meeting or teleconference. Subsequent to the hearing, the Development Services Director will make a written determination, which determination will be final. Notice of the determination may be issued by electronic mail or by paper copy and will be sent to the building permit applicant.

Failure of the building permit applicant to timely appeal within thirty (30) days will be deemed a waiver of the right to appeal and agreement as to the determination of the streets development fees by City staff.

2. Should the building permit applicant dispute the determination of the Development Services Director of the calculation of square feet of development, or the number of square feet of development designated in a Land Use Category, and/or the assessment area or service area/benefit area in which the development is situated, or any other basis for the City's calculation of the fee, then the developer must, within five business days of such calculation, submit formal written notice of appeal to the Board of Adjustment in accordance with Board of Adjustment policies also including:

- (a) a copy of the building permit application and any previously issued building permits, demolition permits, and certificates of occupancy,
- (b) the determination by Development Services Director,
- (c) a copy of the final approved development plan for that development, and
- (d) a written statement, not to exceed three pages, explaining the applicant's calculations and basis for the appeal.

Should the building permit applicant provide such written notice of the appeal of the determination of the Development Services Director with all required documents to the Development Services Director within thirty (30) days, then the Development Services Director will use his/her best efforts to docket such appeal on the next available agenda of the Board of Adjustment in accordance with Open Meeting and City docketing procedures. The Board of Adjustment will review the appeal and provide the building permit applicant an opportunity to be heard at the public meeting of the Board of Adjustment. At the meeting or a subsequent meeting, the Board of Adjustment will make a determination by a majority vote of the members of the Board present at that meeting wherein a quorum is present. The Board of Adjustment may determine the number of square feet of development, or the number of square feet of development designated in each Land Use Category, and the assessment area or service area/benefit area in which the development is situated, or the correct development fee to be assessed based on the calculations herein. The Board of Adjustment may not waive development fees, issue refunds, or grant credits or exemptions. Notice of the determination of the Board of Adjustment will be sent by the Development Services Director to the building permit applicant. This determination of the Board of Adjustment is the final decision of the City. Failure of the building permit applicant to timely appeal within thirty (30) days of the Board of Adjustment decision will be deemed a waiver of the right to appeal and agreement as to the determination of the parks development fees by the Board of Adjustment.

3. Prior to issuing an occupancy permit, the City may compare the square feet of

development as actually constructed and the square feet of development as authorized in the building permit. The City may verify and correct any calculation of square feet of development after completion of the work and any determination of use prior to the issuance of a certificate of occupancy. Should the square feet of development as constructed exceed the square feet of development as authorized in the building permit or should the use of the development be different than in the building permit application, then the developer or property owner must obtain a supplement to the building permit and any additional streets development fees must be paid prior to the issuance of the certificate of occupancy. For any streets development fee deferred until issuance and as a pre-condition of the certificate of occupancy and any additional streets development fee due for a supplemental building permit as provided herein, the developer or property owner must pay the streets development fees in effect at the time of the issuance of the certificate of occupancy or any supplemental permit, respectively. The building permit applicant will have the same right to appeal the additional development fees under the same time limitations, requirements and procedures as set forth in Subsection (K)(1) and (2) above.

4. No refund of streets development fees will be issued as a result of the failure of the building permit applicant to construct all of the square feet of development authorized in the building permit. Provided, however, the subject property will be credited for the development fee payment received.

~~Reserved.~~L. The Development Services Director and Public Works Director or his or her delegate shall compute the Development Fees for a new development in the following manner:

1. The director shall first determine whether the new development qualifies for any discount computed in accordance with subsection (5) below that reduce impact fees otherwise due in whole or in part.

2. To the extent that Development Fees are owed for the new development after application of available discounts, the director shall next determine whether the new development is eligible for credits calculated in accordance with subsection (6) below to reduce impact fees due.

3. The total amount of the Development Fees for the new development shall be calculated and attached to the development application as a condition of approval.

4. An applicant may request an alternative service unit computation for land uses not contained in the most current edition of the *Institute of Transportation Engineers Trip Generation Manual* by submitting a trip generation study demonstrating the appropriateness of the trip generation rates for the proposed development to the director for decision. An applicant may also include an alternative service unit calculation in any appeal taken.

5. Discounts. The following discounts shall apply to reduce Development Fees otherwise due:

(a) Adequate public facilities discount. The Development Fees shall be reduced by 50% for any development where:

(i) One or more points of access serve at least 75% of the PM peak-hour site-generated traffic volumes;

(ii) Such point(s) connect the development to the City's thoroughfare system, as depicted in the Existing Infrastructure Plan; and

(iii) The transportation facility so connected has been improved to its ultimate capacity as classified under the current Existing Infrastructure Plan, or will be improved to its ultimate capacity within 24 months of the date of final plat approval for the development pursuant to a funded capital improvement plan of the city.

(iv) Eligibility for this discount must be determined no later than issuance of the first building permit for land subject to the final plat.

(b) Land use/transportation connection discount. The amount of Development Fees due shall be reduced up to 15% for any development where an accepted traffic impact study demonstrates that the development will reduce the vehicle trips from those contained in the adopted land use equivalency table, to one of the following:

<u>5 to 9% trip capture:</u>	<u>5% impact fee reduction</u>
<u>10 to 14% trip capture:</u>	<u>10% impact fee reduction</u>
<u>15% or > trip capture:</u>	<u>15% impact fee reduction</u>

(c) Extraordinary investment discount.

(i.) The amount of Development Fees due shall be reduced 15% for any development that results in all of the following qualifications, as jointly determined by the Economic Development Director and Planning Director and Public Works Director and Development Services Director:

a. Fifteen million dollars in capital investment, excluding land costs;

b. Creation of 100 new jobs; and

c. The projected salary of the new jobs is at least twice the current minimum wage, plus benefits.

(ii) For each additional \$15,000,000 in capital investment or additional 100 qualified new jobs, the impact fee amount due will be further reduced by an additional 5%, up to a maximum reduction of 50%. A development may receive this discount and have a period of up to three years from the issuance of a building permit to qualify under the terms of this discount. Impact fees otherwise paid shall be refunded to the original payor at the time of issuance of the building permit. A development shall refund a pro rata share of this discount should the development not continue to maintain the number of new jobs for a period of at least ten years from the date of building permit (or the date of qualification for this discount), equal to 10% per annum for each year that the number of jobs is not maintained. The terms related to this discount shall be incorporated within an agreement for credits pursuant to section M below.

(d) Discounts cumulative. Discounts identified in subsections (5)(a) to (5)(c) above are cumulative, so that a development that qualifies for the maximum discount under each provision may reduce impact fees otherwise due up to 100%.

(e) Burden of proof. The applicant for a discount provided for in this section has the

burden of proof to show that the development qualifies for the discount.

(f) Application. An application for discounts shall be submitted with the first building permit application submitted by the applicant. The application for discounts shall be forwarded to the appropriate reviewing department(s).

6. Credits:

(a) The city shall credit the contribution of land, improvements or funding for construction of any system facility that is required or agreed to by the city, pursuant to rules established in this section or pursuant to administrative guidelines promulgated by the city. The credit shall be associated with the plat or other detailed plan of development for the property that is to be served by the transportation facility.

(b) Master planned projects, including subdivisions containing multiple phases, and whether approved before or after the effective date of these development fee regulations, may apply for credits against Development Fees for the entire project based upon contributions of land, improvements or funds toward construction of system facilities, or other transportation improvements supplying excess capacity. Credits shall be determined by comparing costs of transportation improvements supplied by the project with the costs of transportation improvements to be utilized by development within the project, utilizing a methodology approved by the city. The credit determination shall be incorporated within an agreement for credits, in accordance with section M below.

(c) The city's policies and regulations, as amended, governing community facilities agreements shall apply to determine a new development's obligations to construct adjacent system facilities. The obligation to construct, however, shall not exceed the maximum impact fees assessed against the new development. Construction required under such policies and regulations shall be credited against the amount of Development Fees otherwise due. If the costs of constructing a system facility in accordance with the community facilities agreement are greater than the amount of Development Fees due, the amount of the credit due shall be deemed to be 100% of the Development Fees and no Development Fees shall be collected thereafter for the development, unless the number of service units is subsequently increased.

(d) All credits against Development Fees shall be based upon standards promulgated by the city, which may be adopted as administrative guidelines, including the following standards.

(i) No credit shall be given for the dedication or construction of site-related facilities.

(ii) No credit shall be given for a transportation facility which is not identified within the transportation improvements plan, unless the facility is on or qualifies for inclusion on the Existing Infrastructure Plan and the city agrees that such improvement supplies capacity to new developments other than the development paying the Development Fee and provisions for credits are incorporated in an agreement for credits pursuant to section M below.

(ii) In no event will the city grant a credit when no Development Fees can be collected pursuant to this article or for any amount exceeding the total Development Fees due for the development, unless expressly agreed to by the city in writing.

(iv) The city may participate in the costs of a system improvement to be

dedicated to the city, including costs that exceed the amount of the Development Fees due for the development, in accordance with policies and rules established by the city. The amount of any credit for construction of a system facility shall be reduced by the amount of any participation funds received from the city.

(v) Where funds for transportation facilities have been escrowed through a community facilities agreement or future improvements agreement for transportation facilities that was executed with the city prior to the effective date of this article, the following rules apply:

a. Funds expended under the agreement for transportation facilities shall first be credited against the amount of Development Fees that would have been due for those units of development for which building permits already have been issued; and

b. Any remaining funds shall be credited against Development Fees due for the development at the time building permits are issued.

(e) Credits for construction of improvements shall be deemed created when the improvements are completed and the city has accepted the facility, or in the case of improvements constructed and accepted prior to the effective date of this article, on such effective date. Credits created after the effective date of this article shall expire ten years from the date the credit was created. Credits arising prior to such effective date shall expire ten years from such effective date. Upon application by the property owner, the city may agree to extend the expiration date for the credit on mutually agreeable terms.

(f) Unless an agreement for credits under section M below is executed providing for a different manner of applying credits against Development Fees due, a credit associated with a plat shall be applied at the time of application for the first building permit and, at each building permit application thereafter, to reduce Development Fees due until the credit is exhausted.

M. An owner of a new development who has constructed or financed a transportation improvement or facility expansion designated in the Existing Infrastructure Plan, or other transportation improvement that supplies excess capacity, as required or authorized by the city, shall enter into an agreement with the city to provide for credits against Development Fees due for the development in accordance with section L. The agreement shall identify the basis for and the method for computing and the amount of the credit due and any reduction in credits attributable to consumption of road capacity by developed lots or tracts served by the transportation improvements. For multi-phased projects, the city may require that total credits be proportionally allocated among the phases. If authorized by the city, the agreement also may provide for allocation of credits among new developments within the project, and provisions for the timing and collection of Development Fees.

M.N. Subject to the provisions and limitations of 62 O.S. § 895, and the requirement that development exactions by the City shall not exceed a clear, ascertainable, and reasonably determined proportionate share of the cost of capital improvement to the public infrastructure system attributable to the expansion or increase in functional service capacity generated, or to be generated by, the development being charged the fee, nothing in this section 50-14 will:

1. Preclude the City from requiring a developer, and the City reserves the right to require a developer to, donate or dedicate real property or capital improvements, or to install, construct, operate, maintain, or repair capital improvements, including, but not limited to, the following local, adjacent, and site-specific, development-related street and sidewalk improvements to the extent that such improvements are planned as part of the development approval process and as may be required by the subdivision regulations or other ordinances of the City:

- (a) right and left turn lanes that provide access into and out of the proposed development, and
- (b) City-required sidewalks along and/or around the development in accordance with ADA Standards or through reasonable accommodations acceptable under the ADA, and
- (c) traffic signals:
 - (i) if in the event that a City traffic study has determined that one is necessary for a developer's development and as approved by the City's Traffic and Transportation Commission (which signal is deemed to be only for the specific development and falls outside of the scope of the development fees for the benefit area), or
 - (ii) if the signal is requested by the developer.

Any such improvement must be constructed in accordance with City policies, practices, and/or traffic studies or evaluations and in accordance with engineering design guidelines of the City. Determinations of the Traffic and Transportation Commission are subject to appeal as provided in Oklahoma City Municipal Code section 2-751.

~~2. Require a credit against or an adjustment to a streets development fee for contribution of, or to the cost of, any real property or capital improvement provided by a developer.~~

~~3.2.~~ A developer may request and the City may contract with a developer for the developer to improve, at developers sole cost, the addition of new travel lanes (excluding turning lanes or deceleration lanes), or the intersection of two City arterial streets, as designated in the City's Comprehensive Plan, in the proximity of a designated platted development and the City may grant the developer an exemption to streets development fees equal to the cost of improvements approved by the City and up to, but not in excess of the amount of the streets development fees for the designated development. Provided, should the traffic improvements cost more than the applicable streets development fee for the designated development, no additional exemption, and no credit, adjustment or refund will be granted to the developer for the designated development or any other development as a result thereof. Provided, further, the traffic improvements must be constructed in accordance with City standards and procedures and the traffic improvements must satisfy the demands and requirements of the City's traffic study for that area. In conjunction with any such contract the developer will provide a performance and maintenance bond in the amount of the estimated cost of the improvement in accordance with

City policies and procedures. Nothing herein obligates the City to:

- (a) enter such an agreement, or
- (b) contract for improvements that only partially address traffic needs, or
- (c) prioritize improvements to that intersection, or
- (d) finance improvements to that intersection.

N.O. No credit or adjustment shall be carried over from one development to another development at a different location. No credit or adjustment will be carried over from one development to a subsequent development at the same location, unless the development fee collected previously is for the same purpose, making any subsequent collection a repeat charge for the same purpose.

O.P. Development fees shall be deemed dedicated and restricted revenues and therefore shall require accounting for development proceeds as restricted funds. Interest earned on development fees shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of development fees under the provisions of this Section 50-14. Development fees and the interest earned thereon will be deemed to have been expended within the service area / benefit area pursuant to a first in, first out process. The accounting records and details thereof shall be maintained as public records of the municipality, be accessible to the public through open records requests (to the extent required by and in accordance with the Oklahoma Open Records Act and applicable City ordinances), and include at least the following information, as relates both to each development capital project or service area or benefit area and each public infrastructure system for each development capital project or within each service area or benefit area:

1. The receipt of development fees;
2. The development capital project or service area or benefit area(s) from which the development fee was collected;
3. The accumulation of interest on the development fee funds;
4. The type of public infrastructure system for which the funds were collected;
5. The cost of the capital improvements to which the development fees were applied;
and
6. The dates when development fee funds were expended to fund, or applied to reimburse, the cost of capital improvements to public infrastructure systems.

Q. ~~Reserved.~~The City may enter into an agreement with a developer for a different time and manner of payment of Development Fees, in which case the agreement shall determine the time and manner of payment.

R. The City may invest public resources in public infrastructure system costs in anticipation of development, recover those public resources through proportional reimbursement payments from

development fees equal to the total cost of the public investment in those public infrastructure system costs, and subsequently expend the proceeds from those reimbursement payments for any purpose determined by the City.

S. Streets system development fees will continue to be collected until the City Council declares by formal resolution that the public infrastructure system for the streets system has been fully funded and that expanded or modified development will have no additional impact on the streets public infrastructure system. The City may terminate collection of such development fees at any time by formal resolution.

T. No refund or credit may accrue or be given for any existing or future development that reduces square feet of development or fails to construct square feet of development as authorized by a building permit or supplement.

U. The land use categories applicable to developments for purposes of determining the streets development fees are established in the following Land Use Categories table. If a development has multiple land uses, then the Development Services Director shall determine which land use category more likely applies to the impact that development has on streets and will assign one or more land use categories to the development. If the Development Services Director determines that a development includes multiple clearly severable land uses, then the Development Services Director will designate different land use categories to certain square feet of development and will apportion the square feet of development to such land use categories.

Land Use Categories**Institute of
Transportation
Engineers (ITE) Land
Use Code****Land Use Category****Residential**

Single-Family Detached Housing	210
Apartment/Multifamily	220
Condominium/Townhouse	230
Mobile Home	240
Assisted Living	254
Nursing Home	620

Industrial

General Light Industrial	110
General Heavy Industrial	120
Industrial Park	130
Manufacturing	140
Warehousing	150
Mini Warehouse (Self-Storage)	151
Furniture Store	890

Office/Institutional/Lodging

Hotel	310
Motel/Other Lodging Facilities	320
Racquet/Tennis Club	491
Elementary School	520
Middle/Jr. High School	522
High School	530
Church	560
General Office	710
Corporate Headquarters	714
Single Tenant Office Building	715
Office Park	750
Research & Development	760
Business Park	770

Customer-Oriented Low

Golf Course	430
Miniature Golf Course	431
Golf Driving Range	432
Bowling Alley	437
Ice Skating Rink	465
Health/Fitness Club	492
Athletic Club	493
Recreational Community Center	495
Junior/Community College	540

University/College	550
Library	590
Hospital	610
Clinic	630
Medical-Dental Office	720
Government Office Complex	733
Building Materials & Lumber Store	812
Free-Standing Discount Superstore (Includes Grocery)	813
Specialty Retail Center (Small Strip Shopping Center)	814
Free-Standing Discount Store	815
Hardware/Paint Store	816
Nursery (Garden Center)	817
Nursery (Wholesale)	818
Shopping Center	820
Factory Outlet Center	823
Car Sales	841
Automobile Parts Sales	843
Tire Store	848
Tire Superstore	849
Discount Club	861
Home Improvement Superstore	862
Electronics Superstore	863
Discount Home Furnishing Superstore	869
Arts & Crafts Store	879
Pharmacy/Drugstore without Drive-Through	880
Pharmacy/Drugstore with Drive-Through	881
Quality Restaurant	931
Quick Lubrication Vehicle Shop	941
Automobile Care Center	942
Self-Service Car Wash	947
Automated Car Wash	948
Customer-Oriented Moderate	
Movie Theater without Matinee	443
Movie Theater with Matinee	444
Multiplex Movie Theater	445
Daycare Center	565
Government Office Building	730
U.S. Post Office	732
Supermarket	850
Discount Supermarket	854
Apparel Store	870
Walk-in Bank	911
Drive-in Bank	912
High Turnover (Sit-Down) Restaurant	932

Customer-Oriented High

State Motor Vehicles Department	731
Convenience Market (Open 24 Hours)	851
Convenience Market with Gasoline Pumps	853
Fast Food Restaurant without Drive-Through	933
Fast Food Restaurant with Drive-Through	934
Gasoline/Service Station	944
Gasoline/Service Station with Convenience Market	945
Gasoline/Service Station with Convenience Market & Car Wash	946

SECTION 3. That Section 60-38-1 of Title 38 of Chapter 60 of the Oklahoma City Municipal Code, 2010, the General Schedule of Fees, is hereby adopted to read as follows:

CHAPTER 60
THE GENERAL SCHEDULE OF FEES

* * *

Title 38. Parks, Recreation, Cultural Affairs, Etc.

Article I. In General

§ 60-38-1. Parks Development Fees.

A. The parks development fees will be assessed and collected for square feet of development at the rate per square foot of residential development in dollars as set forth below:

Rate for Square Feet of Residential Development: \$ 0.37/square foot

Provided, however, parks development fees:

1. Paid prior to January 1, 2018, parks development fees for residential developments, shall be assessed and collected at 50% of the rate shown above.
2. Paid between January 1, 2018 and June 30, 2018, inclusive, parks development fees shall be assessed and collected at 100% of the rate shown above.
3. Paid thereafter (on or after July 1, 2018), parks development fees will be assessed and collected based upon the parks development fees rate as will be adjusted on July 1, 2018, and annually on July 1 of each year thereafter in accordance with the following formula rounded up to the nearest full cent:

$$\text{Fee} = (R) (X) (Y / Z)$$

Where:

R = the rate per square feet of development in the table above.

X = the number of square feet of development (residential).

Y = "Engineering News Record": Twenty City Average Construction Cost Index as published the last week of June of the most current year.

Z = "Engineering News Record": Twenty City Average Construction Cost Index as published the last week of June of 2015 being 10039.

4. Staff will present to Council at a public meeting an annual report on development fee funds, revenues and improvements. Staff will present to Council at a public meeting an annual report on the development fee rate adjustment.

B. The City hereby makes a legislative determination that developments use and affect parks public infrastructure systems related to the parks system and trails system and, therefore, the parks development fees will be apportioned among recreation systems including the parks system and the trails system as set forth in the tables below.

1. Allocation of Parks Development Fees established in Subsection (A) above among Recreation Systems for developments without existing local park exemptions.

Park System	Trails System
70 %	30 %

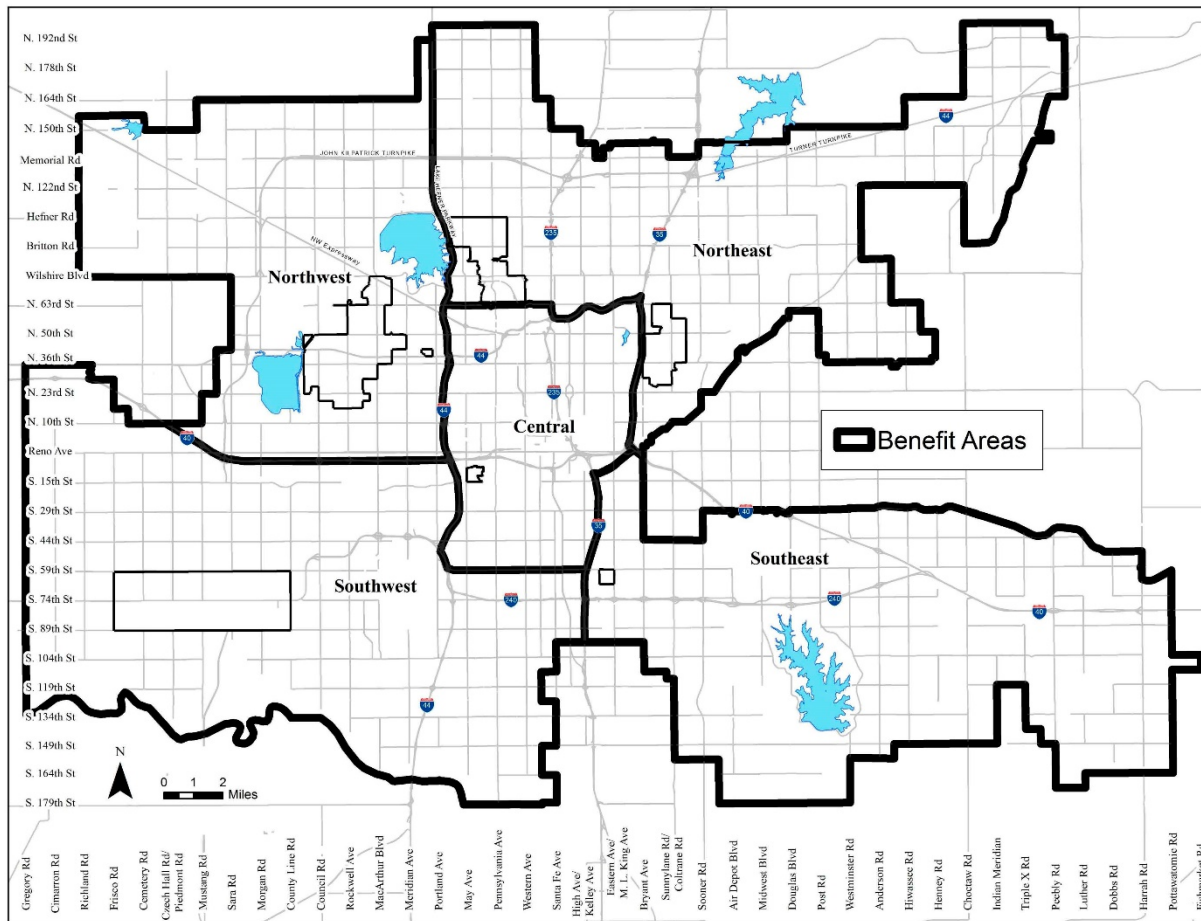
2. Allocation of Parks Development Fees established in Subsection (A) above among Recreation Systems for developments with existing local park exemptions under Oklahoma City Municipal Code Section 38-1(L) or (f) or (U).

The Parks Development Fee shall be the rate per square foot of development in Subsection (A), above, times the square feet of development less 38% of said sum for the existing local park exemption.

Exempt Portion	Park System	Trails System
38 %	32%	30 %

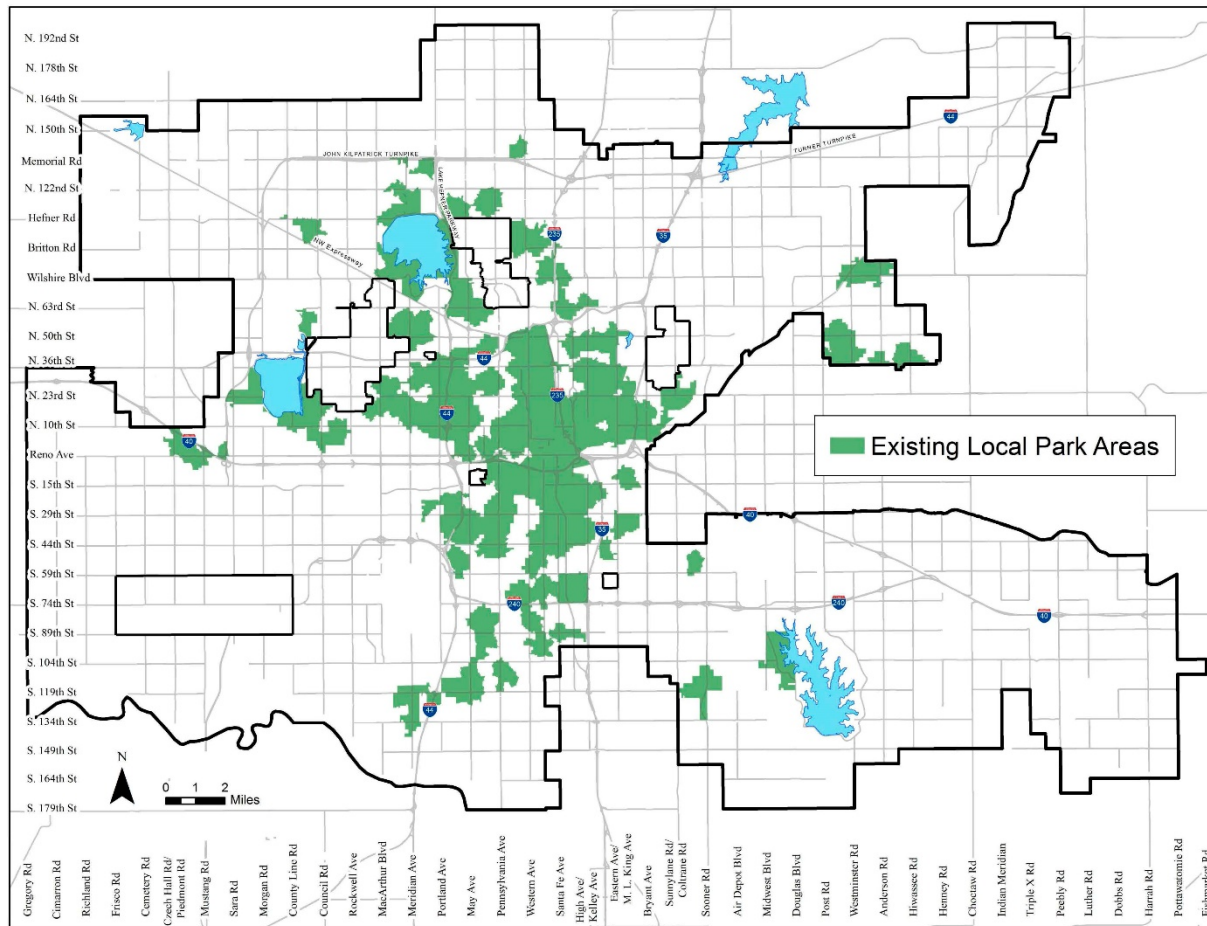
C. The parks development fees for each development will be assessed, collected, allocated and expended among the service areas or benefit areas.

Parks Service Area / Benefit Areas Map



A copy of the Parks Service Areas/ Benefit Areas Map is on file in the Office of the City Clerk, which map is controlling.

**D. Existing Local Park Area Map
(Oklahoma City Municipal Code § 38-1 (T)).**



A copy of the Existing Local Park Area Map is on file in the Office of the City Clerk, which map is controlling.

* * *

SECTION 4. That Section 60-50-1 of Title 50 of Chapter 60 of the Oklahoma City Municipal Code, 2010, the General Schedule of Fees, is hereby adopted to read as follows:

**CHAPTER 60
THE GENERAL SCHEDULE OF FEES**

* * *

Title 50. Streets and Sidewalks

Article I. In General

§60-50-1. Streets Development Fees.

A. The streets development fees will be assessed and collected for square feet of development at the rate in dollars per square foot of development in dollars as set forth below:

Land Use Category	Rate for Square Feet of Development By Assessment Area Category (\$/square foot)			
	Rural	New Growth	Infill	Core
Residential	\$0.33	\$0.33	\$0.28	\$0.24
Industrial	\$0.54	\$0.36	\$0.30	\$0.26
Office/Institutional/Lodging	\$1.10	\$1.03	\$0.87	\$0.76
Customer-Oriented Low	\$0.92	\$0.92	\$0.78	\$0.68
Customer-Oriented Moderate	\$1.28	\$1.28	\$1.08	\$0.94
Customer-Oriented High	\$2.20	\$2.20	\$1.86	\$1.62

Provided, however, streets development fees:

1. Paid between January 1, 2017 and June 30, 2018, inclusive, fees shall be assessed and collected at 100% of the rate shown in the above Streets Development Fees schedule.

2. Paid thereafter (on or after July 1, 2018), street development fees will be assessed and collected based upon the streets development fees rate as will be adjusted on July 1, 2018, and annually on July 1 of each year thereafter, in accordance with the following formula rounded up to the nearest full cent:

$$\text{Fee} = (R) (X) (Y / Z)$$

Where:

R = the rate per square feet of development in the table above.

X = the number of square feet of development.

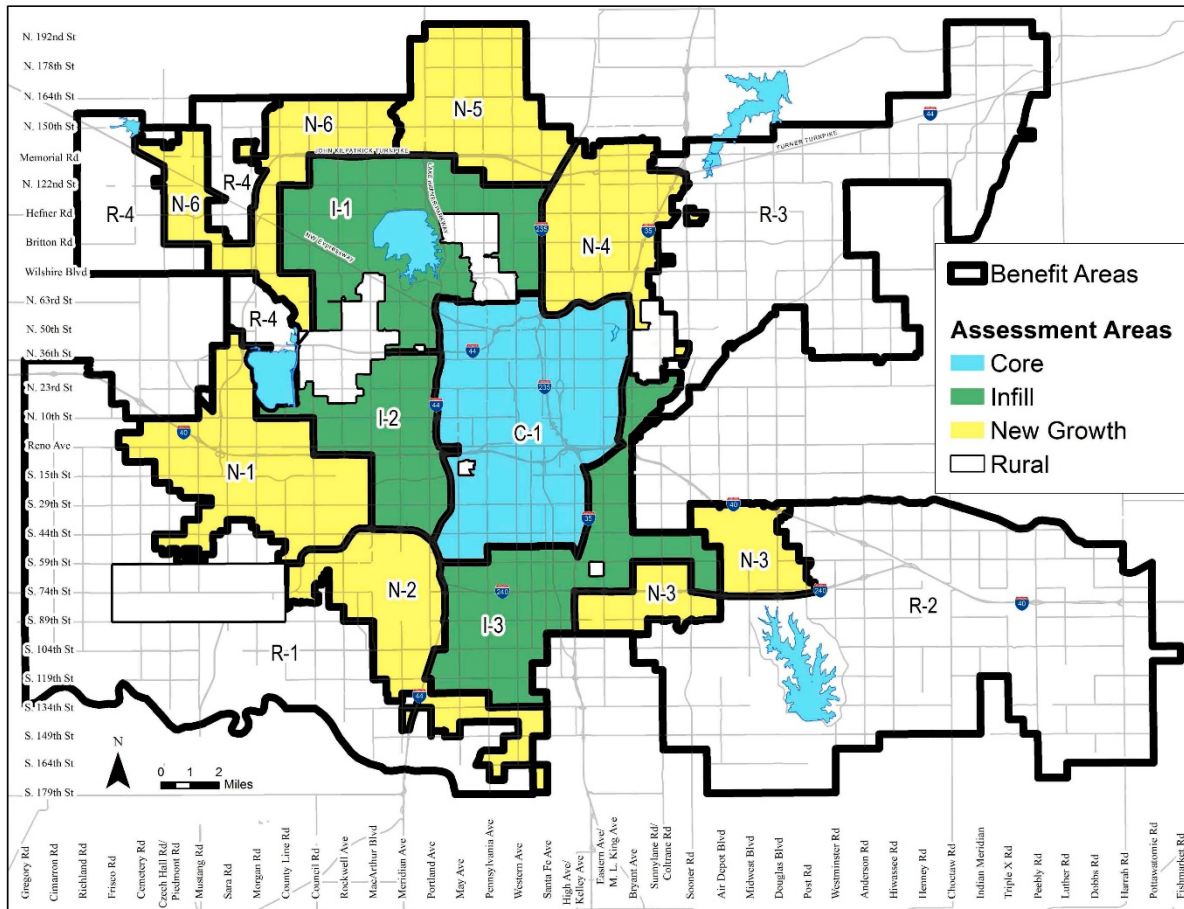
Y = "Engineering News Record": Twenty City Average Construction Cost Index as published the last week of June of the most current year.

Z = "Engineering News Record": Twenty City Average Construction Cost Index as published the last week of June of 2015 being 10039.

3. Staff will present to Council at a public meeting an annual report on development fee funds, revenues and improvements. Staff will present to Council at a public meeting an annual report on the development fee rate adjustment.

B. The streets development fees for each development will be assessed, collected, allocated and expended among the service areas or benefit areas. Each development will be designated an assessment area category and a service area / benefit area as established on the Streets Development Fee Map.

Streets Development Fee Map



A copy of the Streets Development Fee Map is on file in the Office of the City Clerk, which map is controlling.

1. If a development is within more than one assessment area category then the Development Services Director will apportion the square feet of development among the assessment area categories based upon the location of the severable areas of the development.

2. Any expansion to the Comprehensive Plan's Urban-Low Intensity land use typology area shall be automatically and immediately reflected in the Streets Development Fee Map by: 1) expanding the boundaries of the New Growth assessment area to include the expansion area, and 2) altering the boundaries of the benefit areas such that the expansion area is included in the nearest benefit district that is covered by the New Growth assessment area. The Streets Development Fee Map will be deemed revised by virtue of the approval of the revised Comprehensive Plan by City Council. A revised Streets Development Fee Map will be provided by the Planning Director to the City Clerk

and the Development Services Director.

* * *

SECTION 5. Effective Date. This ordinance shall be effective ~~January 1, 2017.~~

INTRODUCED and CONSIDERED in open meeting of the Council of the City of Oklahoma City this ~~26th day of January, 2016.~~

PASSED by the Council of the City of Oklahoma City this ~~26th day of April, 2016.~~

SIGNED by the Mayor of the City of Oklahoma City this ~~26th day of April, 2016.~~

ATTEST: (Seal)

~~Frances Kersey~~_____
City Clerk

~~Mick Cornett~~_____
MAYOR

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