

**CITY OF LEE’S SUMMIT PARKS AND RECREATION IMPACT FEES**

**City Code Chapter 19 – PARKS AND RECREATION.**

**ARTICLE 3. – PARKS AND RECREATION IMPACT FEES.**

**Section 19-300. Purpose and Intent.**

- A. This Article is intended to assist in the implementation of the Parks Capital Improvement Plan (CIP) of the 2021 IGNITE! Comprehensive Plan, the Ignite! Strategic Plan, the 2022 Parks and Recreation Master Plan, and the Greenway & Trails Master Plan, to help achieve the goals therein.
- B. The purpose of this Article is to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide park and recreation facilities improvements in Lee’s Summit, and to ensure that funds collected from new development are used to construct park and recreation facilities that serve new development.
- C. It is the intent of the City to fund ongoing maintenance and operations of park and recreation facilities from other sources of funds which are available to the Parks Department, including all capital needs associated with existing park and recreation facilities.
- D. It is the intent of this Article to establish an administrative review and appeal procedure to ensure that the park impact fees are assessed and collected in accordance with this Article and all applicable laws.
- E. It is the intent of the City to impose a fee pursuant to the City’s home rule powers and general police powers of the City. It is not the intent of the City to impose a tax for general revenue purposes through this Article.
- F. It is the intent of this Article to impose park impact fees to be paid by development that generates demand on park and recreation facilities in the City for the purpose of generating funds which shall be used for parks and recreation improvements that are necessitated by new development in service areas throughout the City.

**Section 19-301. Findings and Authority.**

The Lee’s Summit City Council hereby finds and declares that:

- A. In order to meet development requirements, maintain park standards and continue to promote and protect the public health, safety, and welfare for a growing population, the City of Lee's Summit must expand its park system.
- B. The imposition of park impact fees is a preferred method of ensuring that (1) adequate parks and recreational facilities are available to serve new growth and development, and (2) such new growth and development should be required to pay a proportionate share of the costs of new park facilities which are necessary to serve such increased growth.
- C. Each type of land development described in this Article will create demand for the acquisition or expansion of parks and the construction of recreational facilities and other park improvements.
- D. The fees established in this Article are derived from, based upon, and do not exceed the costs of providing additional parks and park improvements necessitated by the new land development which pays the fees.
- E. This Article is adopted pursuant to the home rule authority granted to the City as a means of mitigating residential, commercial, office, and industrial development impacts upon the parks and recreational facilities in the City.

### **Section 19-302. Definitions**

As used in this Article, the following words and terms shall have the following meanings:

*Bedroom* shall have the meaning set forth in the Lee's Summit Property Maintenance Code in Chapter 16 of the City Code.

*Board* means Lee's Summit Parks and Recreation Board.

*Development* shall have the meaning assigned to such term in Article 15 of the City's Unified Development Ordinance.

*Developer* means any person or entity who owns or hold a purchase option or other development control over real property for which development activity is proposed.

*Dwelling unit* means a structure or part of a structure that is used as a home or residence, providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking and sanitation.

As examples of dwelling unit:

- a single-family residential structure is a single dwelling unit;
- a “duplex” contains two dwelling units;
- a four-plex townhome contains four dwelling units;
- a 10-unit apartment building contains ten dwelling units.

*Fee payer* means the person that pays park impact fees as required by this Article.

*Gross floor area* shall have the meaning assigned to such term in Article 15 of the City’s Unified Development Ordinance.

*Impact Fee Administrator* means the Administrator of the Parks Department or his or her designees.

*Lee’s Summit Parks and Recreation Master Plan* means the 2022 planning document that includes a park and recreation inventory, facility demand, policy and guidance on developing citywide and local park and recreation facilities, which has been approved by the Lee’s Summit Parks and Recreation Board and Lee’s Summit Planning Commission, as such plan may be updated and amended from time to time.

*Mixed-use building* means a single building which contains a residential use and a non-residential use.

*Non-residential* means a building or part of a building that does not contain a residential use.

*Park and recreation facilities* means land acquisition, engineering, design, and construction of park and recreation improvements, public art purchases, and the payment of principal, interest, legal fees, issuance costs and other financing costs on contracts, bonds, notes, or other debt obligations issued by or on behalf of the City to finance such costs and expenses.

*Parks Department* means the Parks and Recreation Department of the City of Lee’s Summit.

*Park Impact Fee Fund* means the fund into which park impact fees which are deposited and maintained and administered by the Finance Department pursuant to the requirements of this Article.

*Residential* means (a) a building or portion of a building that is intended to be used as a home or residence, providing complete and independent living facilities for one or more persons and that contains one or more bedrooms, and (b) a building or structure that serves as an amenity within a residential subdivision for the residents of the subdivision that does not contain a bedroom and is not intended to contain any dwelling units, such as a clubhouse, pool house, boat house or recreational building.

*Service area* means each of the areas which are created pursuant to this Article which are portions of the City to implement the collection and expenditure of park impact fees.

**Section 19-303. Applicability.**

- A. This Article shall be applicable to development requiring a building permit within each designated service area. This Article shall apply to all development for which a building permit is requested on and after October 1, 2024.
- B. Any person or entity who, after the effective date of this Article, seeks to develop land within the City by applying for a building permit for any development is hereby required to pay the park impact fees in the manner and amount set forth in this Article. In all cases, the amount of park impact fees shall be that which is in effect at the time of application for a building permit.
- C. No building permit or building permit which requires the payment of an impact fee shall be issued unless and until the required park impact fee has been paid.
- D. If a lot, tract or parcel for which park impact fees are due and payable is located within more than one service area, the funds resulting from the park impact fees shall be divided between the service areas based on the land area within each service area and spent within each service area as required by this Article.
- E. If a building permit is requested for a mixed-use building, the park impact fees shall be calculated based on each of the residential and non-residential uses within such building. For example, for a building that is primarily an apartment complex which also has retail commercial uses on the first floor, the park impact fees shall be calculated on both the number of bedrooms in the residential use and the floor area of the non-residential (retail commercial) use of the building.

**Section 19-304. Credits.**

- A. Credits. Any credit granted under this Article shall reduce the total fee owed by the fee payer.
- B. Full credits. Upon submission of a proper application therefore, the following persons requesting a building permit shall be granted a full credit in the amount of the park impact fees imposed pursuant to this Article:

1. Development requiring a building permit constructed by or on behalf of a public body for its governmental use.
  2. Development requiring a building permit constructed by or on behalf of a school district of the State.
  3. Rebuilding or repair of an involuntarily damaged or destroyed structure where no additional use or capacity is thereby created.
  4. Development requiring a building permit that is constructed by or on behalf of a person that is exempt from all Federal, State or local taxes, including Federal, State and local sales, income, personal property, real property, use, earnings, excise or license taxes. The burden of proof shall be on the person claiming this credit to demonstrate to the Impact Fee Administrator, by clear and convincing evidence, that the development being constructed by, or by a building contractor on behalf of, a person claiming such credit is exempt from all Federal, State and local taxes as described in this subsection.
  5. Any development for which a complete application for a building permit was submitted before October 1, 2024.
  6. Building permits which are requested an accessory building or use, as such term is defined in the City's Unified Development Ordinance.
- C. Partial or full credits. Upon submission of a proper application therefore, the following persons shall be granted a partial or full credit from the impact fee imposed pursuant to this Article by the Impact Fee Administrator based on the amount of the credit compared to the park impact fee otherwise due:
1. A person that requests a building permit that is required for a change of existing uses within an existing building. The credit shall be the amount of the fee that was paid for construction of the initial building, compared to the fee that would otherwise be due at the time of the building permit application for the change of use.
  2. A person that requests a building permit that results in the redevelopment of property, provided that a complete application for a building permit to construct a building to replace the existing building is filed within six (6) months following demolition of the existing building, or within a longer period of time as approved by the Impact Fee Administrator. As used in this Subsection, redevelopment means the demolition of one or more buildings and the subsequent construction of one or more new buildings on the property. The credit shall be granted only

for the number of bedrooms for residential structures, and gross floor area for non-residential structures, in the previous building(s).

3. Agreements for City park land dedication or private payments for park and recreation facilities.
  - a. A park impact fees credit may be provided to a person that requests a building permit within a development where the developer has a written agreement with the City for such development pursuant to which the developer has agreed to (i) donate land to the City at no cost to the City for parks or recreation improvements or (ii) pay for the construction of new park and recreation facilities or pay for the improvement of existing park and recreation facilities on City-owned park land, in exchange for a credit from the park impact fees which are applicable to that development. The written agreement shall specify the amount and method of the credit.
  - b. Every request for a credit pursuant to this subsection shall be made to the Impact Fee Administrator. A written agreement for credits pursuant to this subsection must be approved by the Parks Board, unless the terms and conditions of such credits are incorporated into a development agreement that is approved by the City Council.
  - c. In evaluating a proposed dedication for City-owned parkland, the following criteria shall be considered by the Impact Fee Administrator and Parks Board:
    - (1) The suitability of the proposed land for use as park and recreation development;
    - (2) Whether the land is of a size and configuration available and necessary for the design of recreational facilities;
    - (3) The land has no known physical problems, including problems with drainage, erosion or flooding, floodplains, environmental hazards or other environmental issues, or physical problems which renders the property incompatible with park and recreation uses. Floodplain areas will not be accepted for park land or park and recreation facilities dedication unless approved by the Impact Fee Administrator;

- (4) Whether the land has appropriate access by way of a public street or easement;
  - (5) Whether the land is located in or near designated City parks or trails and provides connectivity to other park space or walking paths in accordance with approved parks and trails planning documents.
- d. All land dedicated pursuant to this Article shall be set aside for development of park and recreation facilities. The City shall make good faith effort to use, develop and maintain land dedicated for park and recreation facilities. In the event that use of any such dedicated land is determined by the Park Board to be infeasible for development of park and recreation improvements, or otherwise not in the City's best interest, the dedicated land may be sold or may be traded for another parcel of land in the City, subject to the requirements of state law and City Code. The proceeds from such sale shall be used to acquire park land or develop park and recreation facilities in the City.
- e. Credit shall be given for the fair market value of any approved land dedication. Fair market value means the price in terms of money that a property is projected to bring in a competitive and open market under a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus. The fair market value shall be based upon comparable sales of nearby property as determined by the City. If the developer objects to such value determination, the developer, at his or her own cost, may obtain and submit an independent appraisal from an MAI designated appraiser indicating the fair market value of such land. Final determination of said fair market value per acre of such land shall be made by the City in its sole discretion based on such information submitted by the developer and from other sources which may be submitted to the City. The City is under no obligation to accept land for park and recreation facilities.

#### **Section 19-305. Interpretation.**

The Impact Fee Administrator is hereby delegated the authority to interpret the provisions of this Article. The provisions of this Article shall be liberally construed and interpreted so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.

**Section 19-306. Imposition, assessment and collection.**

- A. Park impact fees shall be due and payable for all development prior to the issuance of a building permit, subject to applicable credits. No application for a building permit shall be approved unless the applicant has paid the park impact fees imposed by this Article. Any application for a building permit approved by the City without payment and collection of the park impact fee as required by this Article shall be null and void. The City may retroactively revoke approval of a building permit if it was determined that the appropriate park impact fee was not paid in a correct and timely manner as required by this Article.
- B. It shall be unlawful to occupy a building unless the park impact fee for that building has been paid.
- C. Upon submission of a building permit application, the Impact Fee Administrator shall:
  - 1. Determine the applicability of this Article to the development for which the building permit is submitted.
  - 2. If this Article is not applicable, the Impact Fee Administrator shall notify the applicant in writing of its inapplicability, and the City shall process the building permit application in accordance with all applicable City ordinances and regulations.
  - 3. If this Article is applicable, the Impact Fee Administrator shall calculate and assess the park impact fee in accordance with this Article. Assessment shall be completed promptly after submission of a building permit application, unless the applicant is notified otherwise in writing by the Impact Fee Administrator.
- D. The imposition of the impact fee pursuant to this Article does not alter, negate, supersede or otherwise affect any of the requirements of the City, including the City's zoning ordinance and subdivision regulations through the Unified Development Ordinance, applicable City taxes, and County, State and Federal legislation or regulations that may be applicable to a development.
- E. The funds collected pursuant to this Article shall be deposited in the Park Impact Fee Fund, and used for the purposes specified in this Article.



**Section 19-307. Calculation.**

- A. Upon a determination that a park impact fee is due in connection with a building permit application, the Impact Fee Administrator shall calculate the amount of park impact fee in accordance with the requirements of this Article and the City Schedule of Fees and Charges.
- B. Building permits for structures or portions of structures that contain residential uses shall be charged the park impact fee per bedroom.
- C. Building permits for structures or portions of structures that contain non-residential uses shall be charged the park impact per square foot of gross floor area.
- D. The City Schedule of Fees and Charges shall include the following components to implement the park impact fees:
  - 1. The amount of the fee per bedroom for structures or portions of structures that contain residential uses; and
  - 2. The amount of the fee per square foot of gross floor area for structures or portions of structures that contain non-residential uses.

**Section 19-308. Management and expenditure of park impact fee funds; refunds.**

- A. Park Impact Fee Fund. All funds generated by the payment of park impact fees shall be deposited in the Park Impact Fee Fund which shall be maintained and administered in the same manner as other Parks Department funds. The Park Impact Fee Fund shall contain separate segregated subaccounts for each service area, into which the funds generated by property in each service area shall be deposited. All interest earned or monies deposited to such accounts and subaccounts shall be credited to and shall be considered funds of the fund and subaccount. The funds in the account and subaccounts shall not be commingled with other funds, accounts, or revenues of the City, except as provided herein.
- B. Commingling. The funds in the account and subaccounts shall not be commingled with other funds, accounts, or revenues of the City, except as provided herein. The Finance Department shall follow appropriate accounting procedures to ensure that the park impact fee funds are properly deposited, accounted for, and expended in accordance with the requirements of this Article.

- C. Annual report. The Impact Fee Administrator shall provide an annual report covering the prior fiscal year on each park impact fee account showing the source and amount of all moneys received and the park and recreation facilities that were financed by park impact fee funds within each service area. Such report shall be released by August 1 of each year. Park impact fee funds shall be considered expended or encumbered on a first in, first out basis.
- D. Expenditures. Park impact fee funds may only be expended for park and recreation facilities. Park impact fee funds may not be expended or used for personnel, operations, maintenance, or repair of park and recreation facilities, or to cure existing deficiencies in the parks system.
- E. Time limit. Park impact fee funds shall be expended or encumbered for permissible use within ten (10) years after receipt, unless there exists an extraordinary or compelling reason for such funds to be held longer than ten (10) years based on the facts and circumstances of the service area, the programming and schedule for construction of parks and recreation improvements or other relevant factors.
- F. Refunds. Refunds shall be process according to the following procedures:
  - 1. If a property owner appears to be entitled to a refund of park impact fee funds because they were not expended or encumbered within the time limitations of paragraph E in this Section, the City shall notify the current owner of the property by first class mail deposited with the U.S. Postal Service at their last known address. Notice shall be deemed received on the date the notice is placed in the mail. Failure of the City to provide such notice shall not eliminate the requirement by a property owner to submit a timely request for a refund as required by this section.
  - 2. The refund shall travel with the land, and may be claimed by the property owner at the time the refund is due. The property owner must submit a written request for refund pursuant to the requirements of this Section within sixty (60) calendar days following the expiration of the refund period. In the event that the property owner at the time a refund is due does not timely request a refund in accordance with this Section, no refund of any portion of an unexpired park impact fee payment shall be due to the property owner or any successor in interest to the property.
  - 3. Park impact fee funds that are not expended or encumbered within these time limitations and for which no application for refund has been made in accordance with part 3 of this subsection, shall be retained by the City and expended on eligible costs without further restriction as to the timing of such expenditure.

4. Refunds shall be provided in the following circumstances:
  - (a) The building permit upon which the park impact fee was imposed, calculated and collected has lapsed or has been revoked, prior to construction commencing, and a new building permit will be needed to develop the property, provided such request for refund is made within sixty (60) calendar days following such lapse or revocation.
  - (b) The City has failed to expend the park impact fee funds paid by the applicant in compliance with the time limits of this Section, provided the applicant submits a request for a refund to the City within sixty (60) calendar days following the expiration, or any extension thereto, of the time limit for expenditure of funds, or from the date in the notice of refund as provided in part 1 of this subsection.
5. All requests for refunds shall be made in writing to the Impact Fee Administrator by the current property owner. The applicant shall submit the following information:
  - (a) That the applicant is the current owner of the property;
  - (b) That the park impact fee for the property has been paid;
  - (c) That one of the circumstances set forth in this Section has occurred which authorizes a refund, and the request is made within the allowable time frame;
  - (d) The amount of the refund requested.
6. The Impact Fee Administrator shall review the refund request and the documentary evidence submitted and within thirty (30) calendar days following receipt thereof, make a determination of whether a refund is due. The determination shall be in writing and shall state the reasons for the determination. Refunds may be authorized by direct payment to the applicant, by offsetting the refund against other fees due for development projects by the applicant on the same or other property, or otherwise by agreement with the applicant. The refunded fees shall be taken from the subaccount into which the park impact fee funds were originally placed. For refunds of park impact fee funds that were held beyond the authorized time frame for expenditure, interest will be paid and calculated according to the average rate received by the City on invested funds throughout the period during which the fees were retained.

Interest shall be calculated from the date of payment to the date of the refund request.

**Section 19-309. Service Areas.**

A. Creation. There is hereby created the following service areas in the City for the collection and expenditure of park impact fee funds:

1. North Service Area
2. East Service Area
3. South Service Area
4. Downtown Service Area
5. West Service Area

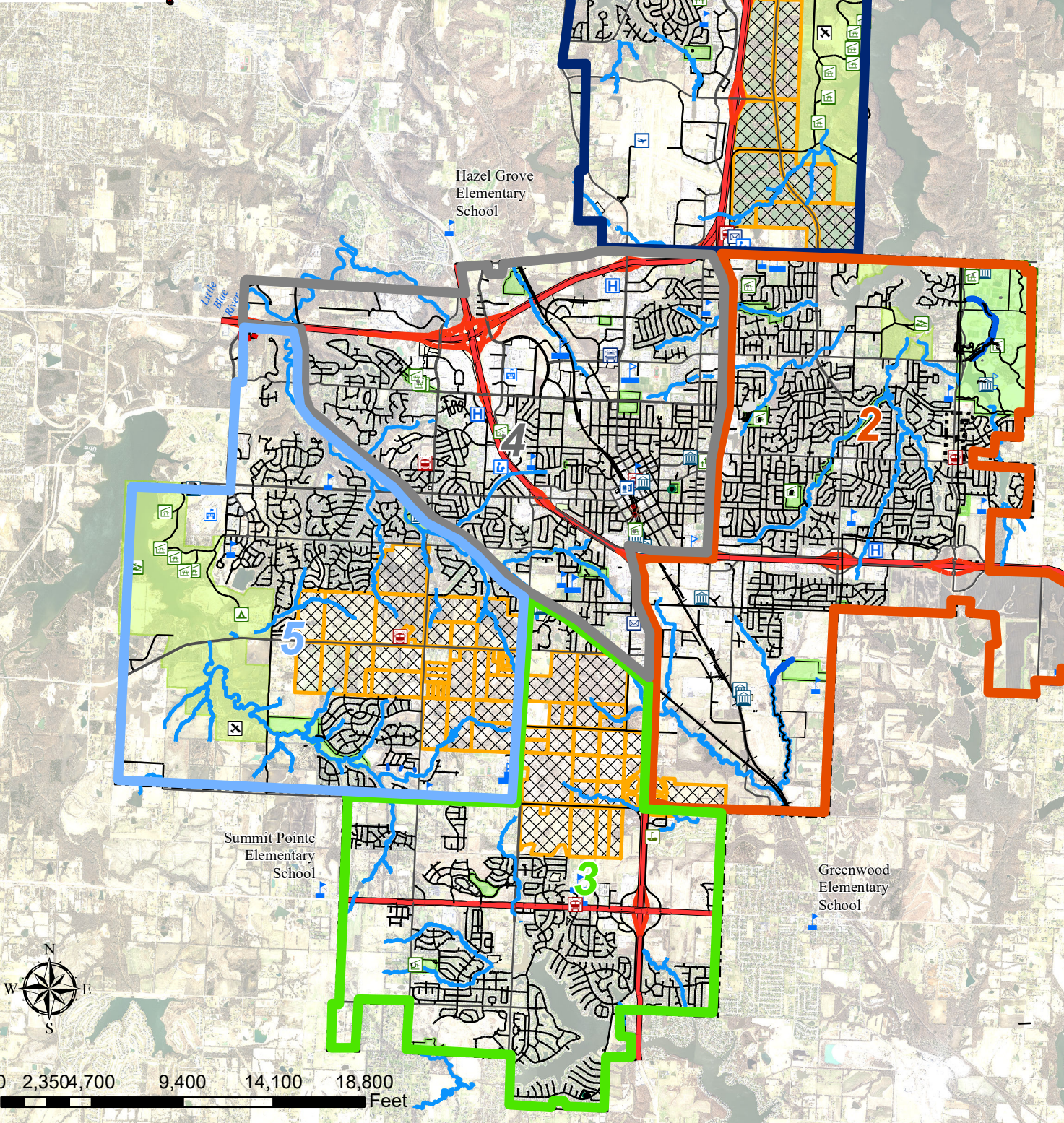
The following “Park Impact Fee Service Area Map” shall govern the boundaries of the service areas.



# Park Impact Fee Service Area Map

## Area Summary

ID	Area	Total Sq Miles	PRI Sq Miles
1	North/Airport	15.38	1.69 (11.0%)
2	Legacy Park/East	14.62	0.21 (1.4%)
3	PRI/South	11.32	1.98 (17.5%)
4	Downtown	11.46	0 (0.0%)
5	PRI/West	12.86	2.85 (22.2%)





- B. Implementation. The park impact fee funds shall be collected, appropriated, and expended within the designated service areas, to ensure that park and recreation facilities bear a reasonable relationship to park and recreation facilities demand generated by new development within each service area. Funds generated within each service area shall only be spent on the construction of new park and recreation facilities and improvements within the same service area. If the property from which the park impact fee funds are received is located within more than one service area, the funds shall be deposited into the subaccount according to the requirements of Section 19-303.

#### **Section 19-310. Administration**

- A. The Impact Fee Administrator shall perform all duties imposed by this Article unless otherwise provided herein.
- B. The Impact Fee Administrator shall have the authority to prepare recommended administrative guidelines that are necessary to effectuate and carry out the intent and purposes of this Article. No administrative guidelines shall take effect until adopted by resolution by the Parks Board.

#### **Section 19-311. Appeals**

- A. Appeal to City Manager.
1. An applicant for a building permit (hereinafter "appellant") may appeal the assessment of the park impact fees to the City Manager by filing a notice of appeal with the City Manager within thirty (30) days following the assessment of the park impact fee by the Impact Fee Administrator. If an appellant fails to appeal the assessment of the park impact fee within thirty (30) days as set forth in this subsection, the assessment of the park impact fee shall be final and no appeal shall be heard. If the appellant pays the park impact fee without protest, the appellant waives the right to appeal the assessment of the park impact fee.
  2. If the park impact fee is due and payable under the terms of this Article, and an appellant desires to process a building permit application during the appeal process, the appellant is required to pay the park impact fee under protest. If the license park impact fee paid under protest, an appeal from a final decision of the Impact Fee Administrator shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.

3. An appellant may appeal to the City Manager the following decisions:
  - a. The applicability of the park impact fee to the application;
  - b. Calculation of the park impact fee; or
  - c. Any credit determination pursuant to this Article.
4. Burden of proof. The burden of proof shall be on the appellant to demonstrate by clear and convincing evidence that the basis of the appeal and the requested relief should be granted.

B. Appeal to Parks Board.

1. An appeal under this subsection may be heard only if the appellant has received a final decision from the City Manager pursuant to part A of this Section.
2. If park impact fees are due and payable under the terms of this Article and an appellant desires to process a building permit application after appeal is taken from the final decision of the City Manager, the applicant is required to pay the park impact fees under protest. If the park impact fee is paid under protest, an appeal from a final decision of the City Manager shall not delay processing of the building permit and shall not delay any other permit, license or approval issued by the City.
3. An appellant may appeal the final decision of the City Manager by filing a Notice of Appeal with the City Clerk within fifteen (15) days following issuance of the final written decision of the City Manager. If an appellant fails to appeal the final decision of the City Manager within fifteen (15) days as set forth in this subsection, the assessment of the park impact fee shall be final and no appeal shall be heard.
4. An appellant may appeal the following decisions of the City Manager to the Parks Board:
  - a. The applicability of the park impact fee to the application;
  - b. Calculation of the park impact fee; or
  - c. Any credit determination pursuant to this Article.
5. Burden of proof. The burden of proof shall be on the appellant to demonstrate by clear and convincing evidence that the basis of the appeal and the requested relief should be granted.

6. Within thirty (30) days after the Board's final decision, the party that submitted the Notice of Appeal shall receive written notice of the decision.
- C. Calculation of days. The number of days specified in this Section shall include weekend days and holidays. The last day of the period shall be included in the computation, unless it is a Saturday, Sunday or a legal holiday, and if it is, the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the Congress of the United States, Missouri legislature or the Council.

#### **Section 19-311. Annual Review**

- A. The park impact fees shall be reviewed on an annual basis by the Impact Fee Administrator. The Impact Fee Administrator shall deliver a report to the Parks Board by the deadline specified in Section 19-308.C, and such report shall include the information required in Section 19-308.C along with any recommendations for amendments to this Article.
- B. The Parks Board shall review the annual report and may make recommendations to the City Council regarding proposed amendments to this Article and adjustments to the residential and non-residential rates which are used to calculate park impact fees as set forth in the City's Schedule of Fees and Charges.

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