AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO’S CODE OF ORDINANCES, ORDINANCE NO. 06-03-31, AS AMENDED, CHAPTER 58 (PARKS AND RECREATION), ARTICLE II (DEDICATION OF LANDS FOR RECREATION AND OPEN SPACE), AND AMENDING ORDINANCE NOS. 93-04-04, 97-01-02, 00-03-31, 01-08-53, 02-09-97 AND 04-12-79; MODIFYING AND ESTABLISHING REGULATIONS REQUIRING DEDICATION OF PARKLAND OR CASH IN LIEU OF DEDICATION, WHERE APPROPRIATE, AND ASSESSING FEES IN ORDER TO MEET THE IMPACT TO CURRENT PARK FACILITIES AS A RESULT OF INCREASED RESIDENTIAL DEVELOPMENT; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco, Texas ("Frisco" or "City") to amend Chapter 58 (Parks and Recreation), Article II (Dedication of Lands for Recreation and Open Space) of Frisco’s Code of Ordinances, Ordinance No. 06-03-31, as amended ("Code of Ordinances"), as set forth below; and

WHEREAS, the City Council finds that recreational areas in the form of public parks are necessary for the wellbeing of Frisco’s citizens and that new residential development impacts the need for additional parkland and park amenities to serve new development so that adequate service levels for park facilities in Frisco may be maintained; and

WHEREAS, the City Council finds that the provisions of this Ordinance reflect a fair method for determining parkland dedication, or cash in lieu of dedication, and assessment of park development fees in an amount proportionate to the new development to meet established levels of service; and

WHEREAS, the City Council has further investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to amend Ordinance Nos. 93-04-04, 97-01-02, 00-03-31, 01-08-53, 02-09-97 and 04-12-79, as set forth below.

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

SECTION 1. Findings. The findings set forth above are incorporated into the body of this Ordinance as is fully set forth herein.

SECTION 2. Amendment to Ordinance Nos. 93-04-04, 97-01-02, 00-03-31, 01-08-53, 02-09-97 and 04-12-79. This Ordinance supersedes any ordinances inconsistent herewith save and except Ordinance Nos. 93-04-04, 97-01-02, 00-03-31, 01-08-53, 02-09-97 and 04-12-79,
which shall continue to apply to property that has received preliminary plat approval prior to the effective date of this Ordinance. Park fees collected under Ordinance Nos. 93-04-04, 97-01-02, 00-03-31, 01-08-53, 02-09-97 and/or 04-12-79, as applicable, shall be utilized and accounted for in accordance with the requirements in this Ordinance. If the property’s preliminary plat approval expires, the property shall be subject to this Ordinance in all respects.

Such amendment shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of Ordinance Nos. 93-04-04, 97-01-02, 00-03-31, 01-08-53, 02-09-97 and/or 04-12-79 occurring before the effective date of this Ordinance.

SECTION 3. Amendment to Code of Ordinances, Chapter 58 (Parks and Recreation), Article II (Dedication of Lands for Recreation and Open Space). The Code of Ordinances, Chapter 58 (Parks and Recreation), Article II (Dedication of Lands for Recreation and Open Space) is hereby amended as follows:

"ARTICLE II. DEDICATION OF LAND FOR PARKS AND RECREATIONAL AREAS AND ASSESSMENT OF PARK DEVELOPMENT FEES"

Sec. 58-19 Purpose

It is hereby declared by the City Council that parks and recreational areas serve the public health and welfare and improve the quality of life of the City’s residents, and that increased residential development in the City impacts the current standards for park and recreational resources and creates the need for additional parks and recreation resources as a result of the increased population. In order to offset this impact, the City Council finds that it is appropriate to require dedication of parkland or require cash in lieu of dedication, where appropriate, and to assess fees in order to meet the impact to current Park Facilities as a result of increased residential development.

Sec. 58-20 Definitions

The following terms, phrases, words and their derivation shall have the meanings as set below. Terms not defined below shall have the meanings given to them in other portions of the Code.

*Applicant* means the property owner or duly authorized agent of the property owner seeking approval for a residential development through platting or other development processes.

*Community Park Facilities* means land or capital improvements used as a community park, including but not limited to recreational facilities, equipment, vegetation, landscaping, pedestrian walkways and bikeways, access improvements and utilities.
Director means the City of Frisco Parks and Recreation Director or his/her designee.

Dwelling Unit or DU means any building, or portion thereof, designed exclusively for residential living and containing one or more dwelling units that has within it a kitchen with a stove or cooktop, a permanently installed sink and bathroom facilities.

Hike and Bike Master Plan means the hike and bike master plan approved by the City Council, as it exists or may be amended.

Linear Park Facilities means land or capital improvements used or to be used as a linear park to connect to other parks, neighborhoods and other public areas, including but not limited to recreational facilities, vegetation, landscaping, equipment, pedestrian walkways and bikeways, access improvements and utilities.

Neighborhood Park Facilities means land or capital improvements used as a neighborhood park, including but not limited to recreational facilities, equipment, vegetation, landscaping, pedestrian walkways and bikeways, access improvements and utilities.

Park Development Fee means a fee assessed to an Applicant to offset the pro-rata costs of Park Facilities as a result of the new residential development.

Park Facilities means Community Park Facilities, Neighborhood Park Facilities and Linear Park Facilities that are generally shown on the Parks and Recreation Open Space Master Plan or the Hike and Bike Master Plan.

Park Facilities Service Area(s) means that area shown on the map attached to this Ordinance delineating the Park Facilities Service Areas within Frisco.

Park Improvement Plan means the park improvement plan, as it exists or may be amended, that identifies the Park Facilities and the average costs of such facilities, whether financed in whole or part through the imposition of a Park Development Fee.

Parks and Recreation Open Space Master Plan means the parks and recreation open space master plan approved by the City Council, as it exists or may be amended.

Persons per Household or PPH means the average number of persons who live in a Dwelling Unit as computed by City staff using data that may include United States Census Data, North Central Texas Council of Governments population
information or records of Frisco that reasonably demonstrate potential persons per
household based on number and size of sleeping areas within a Dwelling Unit.

*Residential development* means a single-family or multifamily residential
development. The term Residential Development does not include commercial
care facilities exclusively used for housing disabled or elderly persons, motels,
hotels or shelters used to temporarily house persons or other similar uses.

*Subdivision Ordinance* means the Subdivision Ordinance approved by the City
Council, as it exists or may be amended.

**Sec. 58-21 Dedication of Parkland**

(a) The park types covered by this Article are Community Park Facilities,
Neighborhood Park Facilities and Linear Park Facilities. An Applicant
shall provide for the parkland needs of the residents by the dedication of
suitable land for park and recreational purposes under this Article unless
the City requires cash in lieu of dedication under Section 58-23.
Dedication of parkland shall be in accordance with the process set forth in
Section 8-12 of the Subdivision Ordinance, as it exists or may be
amended.

(b) The dedicated area must be shown on the preliminary plat and final plat as
“Parkland Dedicated to the City of Frisco.” The Applicant shall dedicate
to the City all parkland required by this Article at the time of final plat
approval and the property must also be conveyed by a special warranty
deed to the City, and be free and clear of any encumbrances except those
allowed under subsections (f) and (g) below. Any open space required to
be included in the development by any other regulation may not be used to
satisfy the requirements of this Article.

(c) The level of service standard for parkland and recreational areas is 8.5
acres per one thousand (1000) residents. Persons per Household is 3.11
for each single-family Dwelling Unit and 1.97 for each multifamily
Dwelling Unit.

(d) The formula to calculate the amount of parkland required to be dedicated
is: 8.5 multiplied by the proposed number of Dwelling Units, and that sum
is multiplied by the applicable PPH rate and divided by one thousand
(1000).

**Example for single-family development**

\[
((8.5 \times 100 \text{ DU} = 850) \times 3.11 = 2643.5) / 1000 = \\
2.6435 \text{ acres}
\]
Example for multifamily development

\[(8.5 \times 100 \text{ DU} = 850) \times 1.97 = 1674.5 \] / 1000 = 1.67 acres

(e) Appraisal and Credit.

(1) An Applicant shall obtain an appraisal report of the net acreage of the tract(s) of land to be developed from an independent appraiser approved by the City. Net acreage shall exclude right of way and any other property dedicated for public use. The report shall utilize a comparable sales method for determining fair market value. The Applicant shall bear all costs for the appraisal.

(2) The tract, whether one or more, shall be appraised to determine the proportionate value of the parkland to be dedicated. The Applicant will receive a credit from the City for forty percent (40\%) of the proportionate fair market value for the amount of dedicated parkland.

(3) The Applicant may elect to receive cash for the credit at the time of final plat approval and dedication or apply the credit toward Park Development Fees assessed on the development.

(f) Suitability of land.

(1) Any land dedicated to the City under this Article must be suitable and needed for park and recreation purposes, as determined by the City. At a minimum, the dedicated parkland must be accessible to public streets and conform to the requirements in the Subdivision Ordinance and Parks and Recreation Open Space Master Plan. Drainage areas may be considered as part of a park if part of approved trail connections or linear parks. Parkland proposed to be dedicated with a drainage channel must be reviewed and approved by the Director.

(2) If the proposed dedication of parkland is not entirely suitable for park and recreation purposes, the Applicant is required to dedicate that portion that is suitable, as determined by the City, and pay to the City the appraised value for the remaining portion that is not dedicated. The Applicant will receive the forty percent (40\%) credit on the appraised value that is dedicated. If all of the land required to be dedicated is not acceptable, the Applicant shall pay cash in lieu of the value of land not dedicated in accordance with Section 58-23.
(g) Parkland to be dedicated must not be encumbered by any lien or easement, must be kept in its natural state and must not be compromised from its original integrity prior to dedication to the City unless approved by the Director. The following characteristics are generally unsuitable:

(1) Neighborhood Parks shall not be located in the one hundred (100) year floodplain except that Linear Park Facilities may be acceptable after review and approval by the Director.

(2) Any areas of unusual topography or slope over three percent (3%) which renders the property unsuitable for organized recreation activities unless approved by the Director.

(3) Property encumbered by easements, utilities or utility appurtenances that restrict the use of the intended park unless approved by the Director.

(h) Payment of Costs. The Applicant shall pay all costs for transferring the property to the City, including the costs of:

(1) A Phase I Environmental Assessment study without any further recommendations for cleanup, and the certification of the assessment must be provided to the City one hundred twenty (120) days before the closing date;

(2) An ALTA land title survey, certified to the City and the title company one hundred twenty (120) days before the closing date;

(3) A title commitment from a title company acceptable to the City along with copies of all exception documents;

(4) Owner’s title policy in a form acceptable to the City;

(5) A special warranty deed in a form acceptable to the City;

(6) Taxes prorated to date of closing;

(7) Recording fees;

(8) Charges or fees collected by the title company; and

(9) Fees for any other service in connection with the transfer of the property to the City.
If the actual number of completed Dwelling Units exceeds the figure on which the dedication was based, additional dedication of parklands shall be required or cash in lieu of dedication will be implemented, such decision is at the sole discretion of the City.

If a replat is filed, the dedication requirement shall be controlled by the ordinance in effect at the time of the filing of the replat. Additional dedication or cash in lieu of dedication shall be required if the actual density (number of dwelling units and/or persons per household) has increased from the density that was applied at the time of the calculation of the original parkland dedication or payment of fee in lieu of dedication.

Upon receipt of a recommendation by the Frisco Parks and Recreation Board, the Planning and Zoning Commission may approve and accept the dedication of parkland as part of the platting process.

Sec. 58-22 Prior Dedication

At the discretion of the Planning and Zoning Commission, any former gift of land by a donor to the City may be credited on a per-acre basis toward parkland dedication requirements imposed on the same donor for this development if the donor is the Applicant.

Donations required as part of a prior development approval shall not qualify for credit.

Sec. 58-23 Cash in Lieu of Dedication

An Applicant is required to dedicate parkland unless the City determines the land is not suitable or needed for Park Facilities in which case the Applicant shall pay cash in lieu of dedication. The decision shall take into consideration the Parks and Recreation Open Space Master Plan locations for current and proposed parks, and any other relevant factors. The decision to receive cash in lieu of dedication shall be made prior to the approval of the preliminary plat.

The amount of cash in lieu of dedication to be paid shall be sixty percent (60%) of the appraised fair market value of the net acreage of the tract(s) of land to be developed and proportionately applied to the amount of land that would otherwise be required to be dedicated under the formula set out in Section 58-21. The appraisal report must be from an independent appraiser approved by the City utilizing a comparable sales method to value the fair market value of the net acreage of the tract(s). The Applicant shall bear all costs of the appraisal.
(b) Payment shall be made prior to recordation of the final plat by cashier’s check or other acceptable cash equivalent, as determined by the City.

(c) Cash in lieu of dedication that is received by the City shall be expended only for the costs to acquire parkland or recreational easements within the Park Facilities Service Area of the Applicant’s development, except as provided in subsection (d).

(d) If, within one year from the date the monies received as cash in lieu of dedication are appropriated for expenditure, the Director determines that land which meets the requirements of Sections 58-21(f)-(g) is unavailable for purchase within the Park Facilities Service Area of the Applicant’s development, then the monies received as cash in lieu of dedication may be used for the purposes described in Section 58-26.

Sec. 58-24 Park Facilities Service Areas

There are hereby established four (4) Park Facilities Service Areas that generally serve the residents within that area and are shown on the attached Exhibit A.

Sec. 58-25 Park Development Fee

(a) A Park Development Fee is hereby imposed on residential development for the purposes of assuring that Park Facilities are available and adequate to meet the needs created by such development while maintaining current and proposed level of park and recreation standards. It is intended to be consistent with and to further the objectives and policies of the Parks and Recreation Open Space Master Plan and to be coordinated with other City policies, ordinances and resolutions by which the City seeks to ensure the provision of adequate Park Facilities in conjunction with the development of land.

(b) The Park Development Fee applies to all residential development and shall be used for the development of Park Facilities. The fee shall not be applied to any renovation or rehabilitation of an existing residential development unless the rehabilitation or renovation creates additional dwelling unit(s).

(c) The Park Development Fee is in addition to and not in substitution of any other requirements or fees imposed by the City on the development of the land. Pursuant to other City regulations, an Applicant may also be required to provide open land, setbacks, buffers and other non-buildable areas on-site in addition to meeting the Park Development Fee requirement. This fee is in addition to any cash in lieu of dedication that is required to be paid.
(d) The Park Development Fee formula uses the number of Community Park Facilities, Neighborhood Park Facilities and current miles of trails in Linear Park Facilities. The formula for Community Park Facilities is the population of the City\(^1\) divided by the current number of developed community parks, divided by the average construction cost for Community Park Facilities. The formula for Neighborhood Park Facilities is the population of the City divided by the current number of developed neighborhood parks, divided by the average construction cost for Neighborhood Park Facilities. The formula for Linear Park Facilities is the average cost to develop Linear Park Facilities divided by the current miles of trails in existence at the time the Park Development Fee is due from the Applicant. The total sum of each of those calculations is multiplied by the PPH for the type of development to determine the Park Development Fee that is assessed to each DU proposed. The Applicant shall be required to pay sixty percent (60%) of the amount calculated for each DU under the formula set forth below:

**EXAMPLE:**

Community Parks: \(145,646 / 3 = 48,548.66\)
Average Construction Costs = \(22,971,286.28 / 48,548.66 = 473.16\)

Neighborhood Parks: \(145,646 / 33 = 4414\)
Average Construction Costs = \(1,574,374.70 / 4414 = 356.68\)

Linear Parks:
Average Construction Costs = \(979,896.99 / 16,183 = 60.55\)

TOTAL = \$890.39

Single-family: \$890.39 \times 3.11 (PPH) = \$2,769.11 per DU
Multifamily: \$890.39 \times 1.97 (PPH) = \$1,754.06 per DU

The final figure is reduced to sixty percent (60%) of the amount owed.

Single-family: \$1,661.46 per DU
Multifamily: \$1,052.44 per DU

**Sec. 58-26 Use of Park Development Fees**

(a) Except as provided in subsection (b), Park Development Fees collected for each Park Facilities Service Area pursuant to this Article, and interest

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\(^1\) The City shall use the current United States Census Bureau five (5) year estimate.
thereon, shall be used solely for the purpose of funding the acquisition or improvement of Park Facilities for such Park Facilities Service Area in accordance with the Parks and Recreation and Open Space Master Plan, Park Improvement Plan or for reimbursement to the City for such acquisition or improvement.

Eligible costs include, but are not limited to, land acquisition, including costs of eminent domain, recreational equipment purchase and installation of improvements and amenities, utility installation and relocation, vehicular and pedestrian access, and the planning, engineering and design of the park and its improvements. Park Development Fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance such Park Facilities. Fees may be used to pay eligible refunds.

(b) The City may transfer Park Development Fees from the accounts of other Park Facilities Service Areas, provided that the Park Facilities Service Area from which the funds were transferred are adequately served at the time of the transfer and the transferred fees are repaid to the Park Facilities Service Area account from which funds are borrowed, within five (5) years from the date of the transfer.

Sec. 58-27 Processing and Collecting Park Development Fees

(a) Applicants for a site plan or plat for residential development must submit, on a form provided by the City, the proposed number of Dwelling Units in the development.

(b) Upon receipt of an application for a site plan or plat, the City shall calculate the applicable Park Development Fee due. If the number of Dwelling Units increases after the original calculation, the City shall re-calculate the Park Development Fee.

(c) If a the site plan or plat has expired and a new application is filed, the Park Development Fee shall be calculated on the basis of the Park Development Fee in effect at the time of the new application.

Sec. 58-28 Accounting Procedures

(a) The City shall establish separate, interest-bearing accounts into which all Park Development Fees and all monies received as cash in lieu of dedication under Section 58-23, respectively, shall be deposited, segregated by Park Facilities Service Area.

(b) Disbursement of funds shall be authorized by the City at such times as are
reasonably necessary to carry out the purposes and intent of this Article; provided, however, that funds shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fees are collected.

(c) The City shall maintain and keep financial records which show the source and disbursement of all fees collected in or expended from each Park Facilities Service Area.

Sec. 58-29 Refunds

(a) The Applicant may apply for a refund if the property on which a Park Development Fee or cash in lieu of dedication has been paid and the funds have not been spent for Park Facilities identified in the Parks and Recreation Open Space Master Plan, Parks Improvement Plan or other City plan for that Park Facilities Service Area within ten (10) years from the date of payment.

(b) Only the Applicant may petition for a refund. A petition for refund must be filed within one (1) year following the expiration of ten (10) years from the date of payment. An incomplete or untimely petition will not be considered and any right to a refund shall be forfeited. If no petition is filed within the one (1) year period, the City may apply the excess amount to any Park Facilities Service Area.

(c) A refund petition must be submitted to the Director and contain: a certified copy of the latest recorded deed for the subject property; current legal description; and a statement of the reasons and explanations for which a refund is sought.

(d) In determining whether a refund is due, the Director shall compare the total Park Development Fees collected for the Park Facilities Service Area for a period of ten (10) years from the date the fee was collected with the total expenditures from the Park Development Fee account for the Park Facilities Service Area for the same period. If collections exceed all expenditures implementing the Park Improvement Plan for that Park Facilities Service Area, a refund is due. The refund amount shall be the development’s pro rata share of the excess of fees collected over expenditures, together with interest earned on such amount for the period.

(e) Within one (1) month of the date of receipt of a petition for refund, the Director must provide the petitioner, in writing, with a decision on the refund request. The decision must include the reasons for the decision. If a refund is due petitioner, the Director shall notify the City’s Finance Department and request that a refund payment be made to petitioner.
(f) If the Applicant disagrees with the decision of the Director, the Applicant shall first meet with the Director and provide a written explanation why the Director's decision was in error. Within fourteen (14) days of that meeting, if the Applicant is not satisfied, the Applicant may appeal the Director's decision to the City Manager.

Sec. 58-30  Procedures for Updating Park Development Fees

(a) At least once every three (3) years, the Director shall prepare a report to the City Council recommending whether the Park Development Fee rate should be updated. In the preparation of such report, the following information shall be included:

(1) A statement summarizing development fees collected and disbursed;

(2) A statement summarizing the status of Park Facilities acquisition and development;

(3) A statement summarizing the administration and enforcement of the Park Development Fee; and

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

(b) The report shall make recommendations, if appropriate, on amendments to this Article; changes in the administration or enforcement of this Article; changes in the Park Development Fee rates; changes in the Park Improvement Plan; and changes in the Parks and Recreation Open Space Master Plan.

Sec. 58-31  Appeals

(a) The Applicant may appeal the following decisions of the Director to the City Manager:

(1) The applicability of the Park Development Fee;

(2) The amount of the Park Development Fee due; or

(3) The amount of refund due, if any.

(b) The Applicant has the burden of proof that the Director's decision was
incorrect.

(c) The Applicant must file a written appeal with the City Manager within fourteen (14) days following the Director’s decision. The appeal shall set forth in detail the reasons for the appeal. An appeal shall not stay the collection of the fee due. If the notice of appeal is accompanied by a payment in an amount equal to the Park Development Fee due as calculated by the Director, the building permit application shall be processed.

(d) An appeal from any decision requiring dedication of parkland by plat or replat, or cash in lieu of dedication, shall be in accordance with subsection 9.01(j)(3) (Appeal to City Council) of the Subdivision Ordinance, as it exists or may be amended.

Secs. 58-32 – 58-89 Reserved”

SECTION 4. Penalty. Any person, firm, corporation or entity violating any provision of this Ordinance or the Code of Ordinances, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine not to exceed FIVE HUNDRED DOLLARS ($500.00), unless the violation relates to fire safety, zoning or public health and sanitation, including dumping and refuse, in which case the fine shall not exceed TWO THOUSAND AND NO/100 DOLLARS ($2,000.00). A violation of any provision of this Ordinance or the Code of Ordinances shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 5. Savings/Repealing. The Code of Ordinances and other ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent prosecution from being commenced for any violation occurring prior to the repeal of the ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 6. Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 7. Effective Date. This Ordinance shall be effective immediately upon its passage and publication as required by law and the City Charter.
Duly passed and approved by the City Council of the City of Frisco, Texas on this 5th day of June, 2018.

Jeff Cheney, Mayor

Attested to an correctly recorded

Kristi Monas
Acting City Secretary

Approved as to form:

Abernathy, Roedcr, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

Dates of publication: June 8 & 15, 2018, Frisco Enterprise
EXHIBIT A
City of Frisco Park Facilities Service Area Map