

#### 4.10 Impact Fee.

##### ~~(1) PURPOSE AND INTENT.~~

**Purpose and Intent.** When ~~underdeveloped~~ land is developed for residential ~~or other~~ purposes, it often ~~, commercial, industrial and institutional uses, it~~ creates a need for additional public infrastructure, including transportation, water, ~~sewagesanitary sewerage~~, storm water sewerage, and park and recreation facilities ~~as well as parks and recreational facilities and other public facilities. Without the generation of new revenue sources, municipalities often must choose between foregoing needed. This additional public facilities or imposing higher property taxes. The imposition of impact fees has become an increasingly important source of local revenue to pay infrastructure directly benefits the newly-developed land, but without some method for public facilities. The state legislature has adopted an Impact Fee Law which helps communities raise funds to pay for new development and maintain current level of services. 1993 Wisconsin Act 305 created sec. 66.0617 of the allocation, the cost is borne by the taxpayers of the entire city. Wisconsin Statutes which allows a municipality to enact an ordinance to §66.0617 enables municipalities to impose impact fees on certain upon developers in an effort for new development to pay its fair share of municipal capital costs. Pursuant to the authority granted to the City of Waukesha by sec. 66.0617, Wis. Stats., to allocate the Common Council hereby enacts this ordinance to enable it to impose impact fees on developers to pay for the capital costs that are necessary to accommodate land development and to maintain current levels of service to those developing areas of the City of Waukesha.~~

##### ~~(2) PUBLIC FACILITIES NEEDS ASSESSMENT~~

In accordance with sec. 66.0617(4), Wis. Stats., the City of Waukesha has prepared a needs assessment for the public facilities for which it is anticipated that impact fees may be imposed. A copy of the Public Facilities Needs Assessment Report entitled Comprehensive Impact Fee and Needs Assessment Study is on file and available for public inspection and copying in the office of the City Clerk.

##### ~~(3) DEFINITIONS.~~

The definitions set forth in sec. 66.0617(1), Wis. Stats., and any amendments thereto, are hereby incorporated and made a part of this ordinance as is fully set forth herein.

##### ~~(4) FEES.~~

An impact fee will be imposed by the Common Council upon any person seeking to construct or create a land development costs of required public infrastructure improvements to the developments which directly benefit from the improvements, to avoid imposing those costs upon the taxpayers at large. The Common Council finds that it is equitable for the developers of land within the City of Waukesha in accordance with this section and sec. 66.0617, Wis. to ~~State.~~

##### ~~(5) STANDARDS FOR FEES.~~

Impact fees imposed under this section:

~~(a) shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.~~

- ~~(1)~~ (b) may not exceed the proportionate share certain amount of the capital costs that are required to serve land development as compared to existing land uses of land of public infrastructure improvements necessitated by their developments in order to maintain the City's Service Standard, defined below, and not to impose those costs upon the taxpayers at large. Therefore, pursuant to Wis. Stats. §66.0617, the Common Council has enacted this ordinance to enable the City to charge impact fees to developers to contribute to the costs of construction of public infrastructure necessitated by land development within the City of Waukesha.

**(2) Definitions.** Capitalized terms used in this section shall have the following meanings:

- (a) Capital Costs** means the costs of construction, expansion or improvement of public facilities, including the costs of acquiring land, legal work, engineering and design. Legal, engineering and design may not exceed 10% of total Capital Costs, unless the City demonstrates that its actual legal, engineering and design costs which relate directly to the public improvement for which the Impact Fee is imposed exceed 10% of Capital Costs. Capital Costs do not include other, non-capital costs to construct, expand or improve Public Facilities; vehicles; or the costs of equipment to construct, expand or improve Public Facilities.
- (b) Developer** means a person that constructs or creates a Land Development.
- (c) Impact Fee** means a cash contribution, the value of contributions of land or interests in land, or the value of contribution of other items of value, imposed on a Developer by the City under this section.
- (d) Land Development** means the construction or modification of improvements to real property that create additional residential dwelling units or that result in nonresidential uses that create a need for new, expanded or improved Public Facilities within the City.
- (e) Public Facilities** means highways as defined in Wis. Stats. §340.01(22), and other transportation facilities; traffic control devices; facilities for collecting and treating sewage; facilities for collecting and treating storm and surface waters; facilities for pumping, storing, and distributing water; parks, playgrounds, and land for athletic fields; solid waste and recycling facilities; fire protection facilities; law enforcement facilities; emergency medical facilities; and libraries. Public Facilities does not include facilities owned by a school district.
- (f) Service Standard** means a certain quantity or quality of Public Facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the City.

**(3) Imposition of Impact Fees.** An Impact Fee shall be paid by any Developer creating a Land Development within the City of Waukesha. Impact Fees, and any amended Impact Fees, shall be determined by the Department of Community Development according to the standards and procedures given in Wis. Stats. §66.0617 and this Municipal Code §4.10, and a proposed Impact Fee Schedule shall then be presented to the Common Council for approval. After approval by the Council, the Impact Fee Schedule, as amended, shall be maintained and published by the Department of Community Development. The Impact Fee Schedule shall show the categories of Public Facilities for which fees are imposed, and the allocation of fee amounts among the categories. (Am. #30-02)

**(4) Payment of Impact Fees.** Impact Fees shall consist of the total amount of all fee categories applicable to the Development shown on the Impact Fee Schedule. Impact Fees shall be paid by the Developer to the City at the time a building permit for any Land Development is issued.

**(5) Amendment of Impact Fee Schedule.** Impact Fees shall be reviewed by the Department of Community Development at least once every five years, and a new Public Facilities Needs Assessment shall be prepared and Impact Fees shall be adjusted, if the review indicates that Impact Fees no longer meet the standards given in Wis. Stats. §66.0617(6) as a result of changing Public Facility needs, inflation, revised cost estimates for capital improvements, changes in other funding sources applicable to Public Facility projects, and any other relevant factors. (Am. #30-02)

**(6) Public Facilities Needs Assessment.** Pursuant to Wis. Stats. §66.0617(4), the City of Waukesha has prepared a Public Facilities Needs Assessment which identifies Public Facilities for which Impact Fees are imposed under Subsection (3). A Public Facilities Needs Assessment shall be prepared before any amendment of this ordinance which changes the Public Facilities for which Impact Fees are imposed, or which alters the Impact Fee Schedule issued under Subsection (3). A copy of the then-current Public Facilities Needs Assessment shall be kept on file by the City and Clerk and made available for inspection and copying by the public. (Am. #30-02)

**Public Hearing.** A public hearing shall be held before any amendment of this ordinance which changes the Public Facilities for which Impact Fees are imposed, or which alters the Impact Fee Schedule issued under Subsection (3). Notice of the hearing shall be as required by Wis. Stats. (c) shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.

~~(d) shall be reduced to compensate for other capital costs imposed by the City of Waukesha with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications, or fees in lieu of land dedication, under Chapter 236, Wis. Stats., or any other items of value.~~

~~(e) shall be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.~~

~~(f) may not include amounts necessary to address existing deficiencies in public facilities.~~

~~**(7)** (g) shall be payable by the developer to the City of Waukesha either in full or in installment payments as §66.0617(3).~~

**(8) Adjustments to Impact Fees.** Impact Fees charged to a Developer may be adjusted, as follows:

**(a)** Impact Fees may be reduced by an amount equal to other charges paid, or the value of property given, with respect to a Land Development by the Developer for the costs of Public Facilities. The amount of the reduction shall be determined by the Department of Community Development.

**(b)** The portion of the Impact Fee allocated for parks, playgrounds and athletic fields shall be reduced by the credit for land dedication described in Municipal Code §23.08(3).

Impact Fees for low-cost housing may be waived or reduced if recommended by the Plan Commission and approved by the Common Council before a building permit may be issued.

~~**(6) COLLECTION.** Impact fees shall be collected as follows:~~

~~(a) Impact fees will be collected by the Department of Public Works at the time of recording a subdivision plat or certified survey map.~~

~~(b) Impact fees not previously collected on vacant land will be collected at the time a building permit is issued.~~

~~(c) Impact fees will also be collected when a building permit is issued on the conversion of existing residential units which adds additional units.~~

~~(7) FEE SCHEDULE:~~

~~FACILITY TYPE~~

~~SINGLE FAMILY~~

~~MULTIFAMILY~~

~~INDUSTRIAL~~

~~COMMERCIAL~~

~~INSTITUTIONAL~~

~~Storm sewer, drainage, storm water management facility~~

~~\$4,000 per acre~~

~~\$4,000 per acre~~

~~\$4,000 per acre~~

~~\$4,000 per acre~~

~~\$4,000 per acre~~

~~sanitary interceptor sewer, sewage pumping station, sewage force mains~~

~~\$500 per acre~~

~~\$500 per acre~~

~~\$500 per acre~~

~~\$500 per acre~~

~~\$500 per acre~~

~~Playgrounds, recreational facility, parkland~~

~~\$479 per dwelling unit~~

~~\$423 mobile home~~

~~Duplex~~

~~352 per unit~~

~~Efficiency, 141 per unit~~

~~1 bedroom, \$183 per unit~~

~~2 bedroom \$296 per unit~~

~~3 bedroom and up, \$479 per unit~~

~~\* Impact fees for parkland, playgrounds and recreational facilities will not be collected for industrial, commercial and institutional uses as the demand for public parks, playgrounds and other recreational facilities are predominately generated by residential development.~~

~~(8) LAND DEDICATION:~~

~~(a) When it is determined by the Park and Recreation Board that a portion of a plat or certified survey map is required by such future public park and other recreational facilities, the developer may be required to reserve such area for not more than three (3) years during which time the City shall either acquire the property or release the reservation.~~

~~(b) Where land. If a portion of a particular project has been required to be reserved pursuant to subsection (a), or when the developer owns other land that has been determined by the Plan Commission to be acceptable for park and recreation purposes, the developer approved for low-cost housing, then the Impact Fee may be adjusted on a pro-rata basis. No amount of a waived or reduced Impact Fee may be required to dedicate such land as part of an impact fee payment.~~

(c) ~~(c) Cash value of land to be dedicated shall be determined by the City and developer based upon the full and fair market value of the land. If the City and developer cannot~~

~~agree on the full and fair market value of the land, an appraisal board consisting of one appraiser selected by the City at its own expense, one appraiser selected by the developer at his/her expense, and a third appraiser selected by two shifted to any other appraisers at Land Development in the City.~~

~~**Segregated Fund for Impact Fees.** The City expense shall determine the value.~~

~~(2)(9) (9) INTEREST BEARING ACCOUNT.~~ The City shall establish and maintain a segregated, interest-bearing account for revenues collected from ~~impact fees. Such funds~~Impact Fees, which shall be accounted separately from other ~~funds of the City~~City funds. All interest shall be added to the segregated account. Funds in the segregated account shall be expended only for the specific Capital Costs for which the Impact Fee was imposed, except for refunds according to subsection (10), below.

~~(10) LOW COST HOUSING.~~ The impact fees imposed by this section on new development ~~Time~~for low cost housing may be waived or reduced by the Common Council upon recommendation-  
~~Use, Refund of Unused Impact Fees.~~ Impact Fees shall be used for the payment of the Plan-Commission. If a portion of a particular project has been approved for low cost housing, then the fee may be adjusted accordingly.

~~(3)(10) (11) REFUND OF FEES.~~ Any impact fees that are imposed and collected pursuant to the provisions of this chapter not expended or committed Capital Costs for expenditure-  
~~by which they were imposed no later than the end first day of the calendar quarter immediately following six years from 120<sup>th</sup> month after the date on which the impact fee~~Impact Fee was paid, collected, or the Impact Fee shall be refunded to the then-current owner of the property, along with ~~respect to which the impact fees were imposed~~any interest that has accrued.

~~(12) FEE REVIEW.~~

~~(11) The fee schedule set forth in paragraph (7) above will be reviewed by the Common Council at least once each year and modified, if necessary, as a result of changing facility needs, inflation, revised cost estimates, capital improvements, changes in other funding sources applicable to public facility projects and other relevant factors and in accordance with the standards for impact fees set forth in sec. 66.0617(6), Wis.~~ **Appeals.**

~~State.~~

~~(13) APPEAL PROCEDURE.~~

(a) ~~(a) A developer~~Developer upon whom an ~~impact fee~~Impact Fee is imposed may, ~~within fifteen days of the imposition of the impact fee, contest the~~ appeal the amount, collection or use of the ~~impact fee~~Impact Fee by filing a written request with the Common Council specifying the basis upon which an appeal is taken. City Clerk, provided the following conditions are met:

(i) (b) Within thirty days of receiving a ~~The~~ request for review by a developer, the Common Council is filed within 15 days of the date on which the Impact Fee is imposed;

(ii) The request specifies the bases on which the appeal is requested; and

- (iii) The Impact Fee is paid to the City within 15 days of the date on which it is imposed.
  - (b) Appeals are limited to whether the amount, method of collection and use of the Impact Fee imposed on the Developer complies with the requirements of this section and Wis. Stats. §66.0617; or the amount of Impact Fee adjustment pursuant to Subsection (8)(a).
  - (c) The Developer shall include in the appeal request the Developer's independent calculations for the Impact Fee, including all supporting information used in the calculation of the fee.
  - (d) The City Clerk shall forward the appeal request promptly to the Department of Community Development. Within 15 days of receiving the appeal request, the Department of Community Development shall evaluate the appeal request and prepare a recommendation for the Common Council. The Common Council shall either place the matter on the agenda for either its next regularly-scheduled meeting, or ~~schedule~~ a special meeting ~~of~~, to consider the appeal.
  - (e) At the meeting, the Common Council shall hold a public hearing, consider the evidence and arguments of the Developer and the Department of Community Development.
  - ~~(b)(f)~~ If, after the hearing, the Common Council finds that the Impact Fee does not comply with this section and Wis. Stats. §66.0617, then the Common Council ~~to hear the appeal of the developer~~ may determine an appropriate remedy, including an amendment of the Impact Fee, or a reallocation of the Impact Fee among its components.
  - (g) ~~(14)~~ The Common Council shall make specific, written findings of fact and conclusions as to whether the imposed Impact Fee complies with this section and Wis. Stats. §66.0617, and shall state the selected remedy. The written decision shall be delivered to the Developer no later than 10 days after the hearing.
  - (h) If the remedy includes a reduction in the Impact Fee, then a refund of the reduction shall be made to the Developer within 10 days of the date of the written decision. If the remedy includes an increase in the Impact Fee, then Developer shall pay the increase to the City within 10 days of the date of the written decision.
  - (i) Provided the Developer has paid the Impact Fee, and all other required permits and approvals for the Land Development have been properly obtained, the Land Development may proceed during the appeal process.
- (12) SEVERABILITY.** If any provision of this ordinance is declared by a court having jurisdiction to be illegal or invalid for any reason, that illegality or invalidity shall not affect the remaining provisions of this ordinance which shall remain in full force and effect.