



### Legislation Details (With Text)

**File #:** 55914      **Version:** 1      **Name:** Updating the City's Impact Fee Collection and Refund Procedures

**Type:** Ordinance      **Status:** Passed

**File created:** 5/13/2019      **In control:** Attorney's Office/Approval Group

**On agenda:** 6/11/2019      **Final action:** 6/11/2019

**Enactment date:** 6/22/2019      **Enactment #:** ORD-19-00042

**Title:** Amending Sections 20.09(1) and 20.11(1) of the Madison General Ordinances to bring the City's Impact Fee Collection and Refund Procedures in line with practice and recent State law changes.

**Sponsors:** Keith Furman

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
6/11/2019	1	COMMON COUNCIL	Adopt	Pass
5/28/2019	1	FINANCE COMMITTEE	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
5/21/2019	1	COMMON COUNCIL	Refer	Pass
5/13/2019	1	Attorney's Office/Approval Group	Referred for Introduction	

**Fiscal Note**

The proposed ordinance amendment updates the ordinance to reflect changes in state law and incorporate existing City collection practices. Wis. Stat. § 66.0617(6)(g), stipulates if the total amount of impact fees due for a development will be more than \$75,000, a developer may defer payment of the impact fees for four (4) years from the date of the issuance of the building permit or until six (6) months before the City incurs the costs related to the development for which the fee was imposed, whichever is earlier. If a developer chooses to defer the payment, the City will lose interest related to the fee that would have been earned in the city treasury. The fiscal impact of the change depends on how many developers chose to defer payment, interest rates, and when the Parks Division needs the fees to pay for construction.

Parks Division staff will need to monitor approved deferred payment requests and letters of credit and anticipates increased administrative time to do so.

An estimate of the fiscal impact cannot be determined at this time, but it is anticipated most developers will not chose this option because it restricts their assets.

**Title**

Amending Sections 20.09(1) and 20.11(1) of the Madison General Ordinances to bring the City's Impact Fee Collection and Refund Procedures in line with practice and recent State law changes.

**Body**

**DRAFTER'S ANALYSIS:** This ordinance makes changes to the City's impact fee collection ordinance in response to 2017 Wis. Act 243, as well as to incorporate existing City collection practices. New subdivision (b) reflects existing City practices where alternate forms of payment are sometimes accepted for certain larger development. New subdivision (d) directly incorporates a deferred impact fee option mandated by recent changes to State law. Finally, the impact fee refund procedure has been updated, as required by State law, to

allow for refunds of impact fees to developers in the event that the City does not use the impact fees in the statutorily mandated period.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (1) entitled "Collection of Impact Fee" of Section 20.09 entitled "Administration of Impact Fee" of the Madison General Ordinances is amended to read as follows:

"(1) Collection of Impact Fee.

- (a) Fees Due. Except as provided in Subdivision (d), All impact fees imposed under this chapter shall be imposed upon each buildable lot in a development and shall be payable in full, at the annually adjusted rate then in effect, at the time of issuance of any building permit under Chapter 29 of the Madison General Ordinances.
- (b) Alternate Forms of Payment. If the total impact fees due for a development are greater than \$100,000, the City, upon request, may accept a letter of credit, or other cash equivalent, from a developer to satisfy the impact fees, provided any such instrument is on terms and conditions acceptable to the Finance Director. The decision whether to accept such a form of payment is the City's alone and is not appealable.
- (c) Early Payment. Developers or land owners may, at their own option, elect to either pay any or all of the imposed impact fees at the time of plat or certified survey map recording, or pay any or all of the imposed impact fees or special charges at any other time prior to the issuance of the building permit.
- (d) Deferred Payment. As provided for by Wis. Stat. § 66.0617(6)(g), if the total amount of impact fees due for a development will be more than seventy-five thousand dollars (\$75,000), a developer may defer payment of the impact fees for a period of four (4) years from the date of the issuance of the building permit or until six (6) months before the City incurs the costs to construct, expand, or improve the public facilities related to the development for which the fee was imposed, whichever is earlier. If the developer elects to defer payment under this subdivision, the developer shall maintain in force a bond or irrevocable letter of credit, on terms agreeable to the City, in the amount of the unpaid fees executed in the name of the City. A developer may not defer payment of impact fees for projects that have been previously approved. A developer must elect the deferred payment option under this subdivision prior to the issuance of the building permit.
- (e) Unpaid Fees. Unpaid impact fees shall be special charges to the property owner at the time of permit issuance; and, if not so paid, shall become a lien as provided in Wis. Stat. § 66.0627(4), as of the date of such delinquency and shall be automatically extended upon the current or next tax roll as a delinquent tax against that real property parcel without further notice or hearing, and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to each such special charge. Alternatively, developers or land owners may, at their own option, elect to either pay any or all of the imposed impact fees at the time of recording, or pay any or all of the imposed impact fees or special charges at any other time prior to the issuance of the building permit."

2. Subsection (1) of Section 20.11 entitled "Refunds" of the Madison General Ordinances is amended to read as follows:

"(1) ~~The current owner of a property on which an impact fee has been paid~~ person who paid the impact fee may apply for a refund of such fee if ~~(a) the City has failed to provide a public facility serving such property within the applicable statutory period from the date of payment of the impact fee, as prescribed in Wis. Stat. § 66.0617(9), or (b).~~ The person who paid the impact fee or the current owner of a property on which an impact fee has been paid may apply for a refund of such fee if (a) the building permit for which the impact fee has

been paid has lapsed for non-commencement of construction; or (~~eb~~) the project for which a building permit has been issued has been altered in a manner which has resulted in a decrease in the amount of the impact fee due; or (~~ec~~) as otherwise authorized in this Ordinance.”