



Legislation Details (With Text)

**File #:** 43500      **Version:** 1      **Name:** Park impact fee  
**Type:** Ordinance      **Status:** Passed  
**File created:** 6/23/2016      **In control:** BOARD OF PARK COMMISSIONERS  
**On agenda:** 11/1/2016      **Final action:** 11/1/2016  
**Enactment date:** 1/1/2017      **Enactment #:** ORD-16-00091

**Title:** Amending Sections 16.23(5)(h)1., 16.23(8)(f), 20.04, 20.09(3), and 20.16(5), repealing Sections 20.08 (2) and (6), and recreating Section 20.08(2) of the Madison General Ordinances to recreate a combined park impact fee and update the park and open space land dedication requirements for the City of Madison.

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**Indexes:**

**Code sections:**

**Attachments:** 1. Public Facility Needs Assessment, 2. Needs Assessment Available Memo.7.5.16, 3. Body, 4. Park Impact Fee Projection.pdf, 5. Memo from Veridian dated 9.6.16, 6. Letter from D. Callaghan dated 9.14.16, 7. Memo from Superintendent Knepp re Treatment of ADUs Under Proposed Impact Fee Ordinance, 8. AASCW Impact Fee Letter, 9. Smart Growth Letter to Parks Commission, 10. Knepp Development Community Letter Sept 1 2016, 11. Response to Mr Knepp RE Occupancy Limits Park Fees ADUs Thering, 12. Diagram ADU Permit Process Design Coalition Institute, 13. Design Coalition Memo Regarding Impact Fees and ADUs.pdf, 14. Publication Proof., 15. BOE/Parks memo dated 10-24-16

Date	Ver.	Action By	Action	Result
11/1/2016	1	COMMON COUNCIL	Adopt and Close the Public Hearing	Pass
10/24/2016	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
10/5/2016	1	BOARD OF PARK COMMISSIONERS	Return to Lead with the Recommendation for Approval	Pass
9/19/2016	1	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
9/14/2016	1	BOARD OF PARK COMMISSIONERS	Refer	Pass
9/6/2016	1	BOARD OF ESTIMATES (ended 4/2017)	Referred	
9/6/2016	1	BOARD OF ESTIMATES (ended 4/2017)	Referred	
9/6/2016	1	COMMON COUNCIL	Refer	Pass
8/30/2016	1	Attorney's Office/Approval Group	Referred for Introduction	

**Fiscal Note**

**Purpose**

Impact fees are a way for local governments to require new developments to pay a proportionate share of the infrastructure costs they impose on the community. Impact fees are charges that are assessed on new development using a standard formula based on objective characteristics, such as the number and type of dwelling units constructed. The fees are one-time, up-front charges, with the payment usually made at the time of building permit issuance. Essentially, impact fees require that each new development project pay its pro-rata

share of the cost of new capital facilities required to serve that development.

#### Historical Context and Types of Fees that Exist

The City's existing park and open space land dedication requirements and park-related impact fees are supported by a public facility needs assessment that was prepared internally by Parks Division staff in 2002. The Park Development Impact Fee, Sec. 20.08(2), was created in 2002 as a means to require all land development to pay for off-site parks infrastructure improvements necessary to accommodate land development. The Parkland Impact Fee, Sec. 20.08(6), was created in 2006 to work in combination with the land subdivision park and open space land dedication requirements in Sec. 16.23(8)(f) to ensure that all development either provided sufficient park and open space dedications to serve the development or a fee in lieu of this land dedication so that additional park land could be acquired by the City.

#### Fee Changes

The City's existing park-related impact fees will be repealed and replaced by a combined "Park Impact Fee." This new Park Impact Fee will continue to apply to all development in the City, and will consist of two parts: the Park-Land Impact Fee (replacing the Parkland Impact Fee) and the Park-Infrastructure Impact Fee (replacing the Park Development Impact Fee). The Park-Infrastructure Impact Fee rate will be adjusted annually based on the Construction Cost Index. The Park-Land Impact Fee rate will be adjusted annually based on City Assessor land value data.

#### District Changes

The existing 11 districts, which were centered around the City's large neighborhood/community parks, four districts have been created: north, east, central and west. The larger districts provide increased flexibility in the expenditure of park development impact fees. The current districts are too small, and make it difficult to accumulate enough revenue in some districts to fund meaningful improvements; the new districts will allow fee expenditure to occur in a more equitable manner. In addition, 20% of all Park-Infrastructure Impact Fees will be placed into a City-wide benefit district to be used throughout the City.

Please see attached table for fiscal implications of the proposed fees.

#### Title

Amending Sections 16.23(5)(h)1., 16.23(8)(f), 20.04, 20.09(3), and 20.16(5), repealing Sections 20.08(2) and (6), and recreating Section 20.08(2) of the Madison General Ordinances to recreate a combined park impact fee and update the park and open space land dedication requirements for the City of Madison.

#### Body

DRAFTER'S ANALYSIS: This ordinance repeals and recreates the City's park impact fees under a combined ordinance and updates the park and open space land dedication requirements based upon the findings and conclusions of a new Public Facility Needs Assessment, and brings the City's impact fee ordinance more in line with the current state statutes. The effective date of this ordinance is being set at January 1, 2017, and the fees will be fully implemented over a three-year period (80% in 2017, 90% in 2018 and 100% in 2019 and beyond). This will make administration of the new impact fee and land dedication requirements to be more straightforward and will give developers time to adjust to and plan for the increases in land dedication requirements and impact fee payments.

The City's existing park and open space land dedication requirements and park-related impact fees are supported by a public facility needs assessment that was prepared internally by Parks Division staff in 2002. The Park Development Impact Fee, Sec. 20.08(2), was created in 2002 as a means to require all land development to pay for off-site parks infrastructure improvements necessary to accommodate land development. The Parkland Impact Fee, Sec. 20.08(6), was created in 2006 to work in combination with the land subdivision park and open space land dedication requirements in Sec. 16.23(8)(f) to ensure that all development either provided sufficient park and open space dedications to serve the development or a fee in lieu of this land dedication so that additional park land could be acquired by the City. Under Wis. Stat. Sec. 66.0617, impact fees should be updated approximately every 10 years. Hence, both of the City's park-related impact fees are due to be updated. Indeed, since the existing impact fees were created, there have been multiple changes to the State impact fee law (Wis. Stat. Sec. 66.0617) and new development trends have

arisen in Madison, specifically the construction of 4 or larger bedroom apartments and the allowance of accessory dwelling units on existing zoning lots. In order to examine the City's current park land and infrastructure needs, the City hired an outside consultant to prepare a new public facility needs assessment. Looking at data gathered from around the nation and within Wisconsin, the City's Park and Open Space Plan, and the City's existing park inventory, a new needs assessment has been prepared, as required by State statute. This ordinance would enact the recommendations of this document, the Park Impact Fee and Land Dedication Policy and Public Facility Needs Assessment (June 2016) (the "Needs Assessment"), currently available for public inspection and copying in the offices of the City Clerk and the Parks Division.

For starters, the City's existing park-related impact fees will be repealed and replaced by a combined "Park Impact Fee." This new Park Impact Fee will continue to apply to all development in the City, and will consist of two parts: the Park-Land Impact Fee (replacing the Parkland Impact Fee) and the Park-Infrastructure Impact Fee (replacing the Park Development Impact Fee). The Park Impact Fees will be based upon a service unit of residents per dwelling, using data compiled locally, statewide and nationally as described in the Needs Assessment. The current impact fees were based upon a similar methodology-- however the underlying data has changed over time and the Needs Assessment is based upon a better set of data. In addition, in light of recent development trends in the City, it was necessary to differentiate between 1-3 bedroom multi-family dwellings and 4 or more bedroom multi-family dwellings. The latter, which are becoming more prevalent, have more residents and place a greater demand on park infrastructure than a standard multi-family dwelling unit, such that a new category was warranted. Also, a new class of housing became permissible with the enactment of the new zoning code in 2013. Accessory dwelling units, small dwelling units located on existing single-family or two-family zoning lots, were previously categorized as single-family/duplex units for impact fee purposes. However, the Needs Assessment concluded that the multi-family rate would be reasonable to apply to these new forms of housing. Additionally, the existing "lodging houses" category is being subsumed by a broader category of similar types of group living housing arrangements, making it clear where these other types of housing choice fit within the City's impact fee and land dedication requirements. Finally, the rates on age-restricted housing have been adjusted to accurately reflect the amount of residents who reside in these dwelling types based upon the available data.

The Park-Land Impact Fee will continue to operate in tandem with the dedication requirements of Sec. 16.23(8)(f), and those requirements are being updated as well by this Ordinance to reflect the updated data in the Needs Assessment and current practices. Moreover, the manner in which the Park-Land Impact Fee will be calculated will be changing to better reflect the actual cost to the City to acquire park land to serve development. Currently, the Parkland Impact Fee is based upon the "fair market value of unimproved lands that would have been required for dedication" with a cap set at what amounted to the price of raw suburban land in 2006, as adjusted annually by 5%. The Parks Division has found that this impact fee does not adequately represent the cost to the City to actually acquire park land within the City. In addition, this methodology has proven confusing to some about whether the impact fee is meant to recover the cost of land at the development site, near the development site, or elsewhere within the City. Recently, the calculation of this fee has been subject to increased challenges, particular on the fringes of the City. To clarify the purposes of the Park-Land Impact Fee, which is to recover the cost to the City to acquire new park land in the City to ensure that the park system can adequately accommodate development, the new fee structure will be based upon the overall average assessed value of land in the City as determined by the annual certified tax roll. By using this method, the Park-Land Impact Fee will better recognize the cost to the City to acquire park land in the City and the annual fluctuations in land values, as well as eliminate confusion and challenges to the impact fee determination. In addition the payment language is being updated to reflect the current practice of collecting fees-in-lieu of dedication at the time of building permit issuance.

The Park-Infrastructure Impact Fee will be based upon an updated infrastructure cost per service unit, as adjusted annually for inflation. Of note, the Needs Assessment has recommended that the existing 11 benefit districts be reduced. The City's existing districts are much smaller than necessary based upon national trends, and have made it difficult to accumulate sufficient revenue in some districts to fund meaningful improvements. Because impact fees must be spent in the district where they are accumulated, based upon development patterns within the City, some districts have found themselves flush with impact fees and short on infrastructure needs, while adjoining districts have found themselves short on funding to address infrastructure deficiencies. These inequities in park infrastructure funding are contrary to the City's equity

goals and make it difficult for the City to actually address infrastructure demands on the park system attributable to development. Hence, to replace the existing 11 districts, which were centered around the City's large neighborhood/community parks, four districts have been created: north, east, central and west. The district lines are clear and will allow a wider dispersal of parks infrastructure improvements to accommodate land development. In addition, 20% of all Park-Infrastructure Impact Fees will be placed into a City-wide benefit district to be used throughout the City. The end result of this reorganization of the benefit districts will see a more equitable distribution of impact fees throughout the City and a better effort at improving the City's parks to accommodate land development.

Based upon the authority granted to the City by Wis. Stat. Sec. 66.0617(7), a new exception to the Park Impact Fees is being created for Low-Cost Housing. Low-Cost Housing is a deed-restricted development that creates affordable rental or owner-occupied housing units. These are generally tax credit supported low-income and affordable housing projects that meet certain state and federal requirements. Under the state statutes, this is the only type of land development which may be exempt from impact fees, although the City may not recover the lost impact fees from this exemption from other development in the City. Accordingly, this exemption will cause the Parks Division to recognize less Park Impact Fee revenue than it otherwise would, meaning the City's general fund will have to support some park land acquisition and infrastructure improvements to fully accommodate land development. However, it is believed that, because the elimination of park impact fees on Low-Cost Housing developments will reduce the upfront costs associated with these developments, this exemption will encourage additional such developments, which is an interest of the City.

Legistar File No. 43518 is a companion ordinance that clarifies that the term "lodging room" in the zoning code applies to park impact fee determinations under Chapter 20. Additional changes are being made to make the language and terminology relating to the Park Impact Fees consistent.

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

Please see "Body" in Attachments.