

ORDINANCE NO. 2002- 1712

AN ORDINANCE TO AMEND §92-9 OF THE MUNICIPAL CODE
PERTAINING TO IMPACT FEES

WHEREAS, the Common Council adopted Ordinance No. 95-1341, An Ordinance Establishing Impact Fees Upon Land Development, on April 25, 1995 and the Franklin Impact Fee Task Force Impact Fees Needs Assessment – 1995 Report to the Mayor and Common Council dated March 21, 1995 recommended the periodic review by the City of impact fees established, especially if the factors affecting the volume and impact of growth change significantly; and

WHEREAS, the Common Council formed a new Impact Fee Task Force in 2001, comprised of seven citizen members, for the purpose of reviewing existing impact fees and making recommendations as to any necessary revisions; upon the recommendation of the Impact Fee Task Force, the Common Council retained the firm of Ruekert/Mielke to conduct a study of population and development projections as they pertain to the imposition of impact fees and to prepare a public facility needs assessment, as contemplated by §66.0617(4), Stats.; and such study and assessment having been completed by Ruekert/Mielke and reviewed by the Impact Fee Task Force and both having recommended certain amendments to the provisions of the impact fee ordinance; and

WHEREAS, a public hearing was held before the Common Council on May 7, 2002, to receive public input upon the proposed changes to the impact fee ordinance as set forth in the public facilities needs assessment, entitled "Impact Fee Study", prepared by Ruekert/Mielke and dated April/2002; and

WHEREAS, notice of the aforesaid public hearing was published as a Class I Notice under Ch. 985, Stats., which notice specified that the public facilities needs assessment was available for public viewing in the office of the City Clerk; said needs assessment having been so available in such office for at least 20 days prior to the public hearing; and

WHEREAS, the Common Council having found and determined that the proposed impact fees it considered for adoption by way of amendment to §92-9 of the Municipal Code bear a rational relationship to the need for new, expanded and improved public facilities required to serve land development; that such fees do not exceed the proportionate share of the capital costs that are required to serve land development as compared to existing uses of land within the City; that a twenty year planning and financing period is a reasonable period of time under all of the circumstances presented upon which to base, calculate, impose and expend the proposed impact fees; and that the proposed impact fees are based upon reasonable estimates of the capital costs for new,

expanded or improved public facilities and do not include amounts necessary to address existing deficiencies in public facilities.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: §92-9 of the Municipal Code of Franklin, Wisconsin be and the same is hereby amended as follows (only changed or created provisions are set forth):

Sub. A.: insert as a codifier's consistency correction: "facilities for pumping, storing and distributing water, transportation facilities," immediately after "law enforcement facilities,".

Sub. B.: add the following new definitions:

"COMMERCIAL DEVELOPMENT-- The construction or modification of improvements to real property for commercial land uses within and as contemplated by the B-1, B-2, B-3, B-4, B-5, B-6 and VB Districts; and within the BP District, within a Planned Development District, under a Special Use Resolution or otherwise under a lawful use by right, subject to such interpretations as necessary by the Planning Manager applying Table 3.0603 of the Unified Development Ordinance, all as set forth in the Unified Development Ordinance.

INDUSTRIAL DEVELOPMENT -- The construction or modification of improvements to real property for industrial land uses within and as contemplated by the M-1 and M-2 Districts; and within the BP District, within a Planned Development District, under a Special Use Resolution or otherwise under a lawful use by right, subject to such interpretations as necessary by the Planning Manager applying Table 3.0603 of the Unified Development Ordinance, all as set forth in the Unified Development Ordinance.

INSTITUTIONAL DEVELOPMENT – The construction or modification of improvements to real property for institutional land uses within and as contemplated by the I-1 District; and within the BP District, within a Planned Development District, under a Special Use Resolution or otherwise under a lawful use by right, subject to such interpretations as necessary by the Planning Manager applying Table 3.0603 of the Unified Development Ordinance, all as set forth in the Unified Development Ordinance. The construction or modification of improvements to real property by the United States, the State of Wisconsin, Milwaukee County and the City of Franklin are not institutional development for the purposes of this Section.

RESIDENTIAL EQUIVALENT CONNECTION (REC) – A unit of measure for water usage that is equivalent to the average daily amount of water usage of one residential dwelling unit. For the purposes of the water supply and distribution facilities impact fee established under this Section, a REC shall be equal to 169 gallons of water per day."

Sub. C. introduction: delete "I" and insert "J".

Sub. C.(1) amended to read: "The amount of the fee per residential dwelling unit to be constructed or created by the proposed development, subject to adjustment pursuant to Subsection K., below, shall be as follows:"

Sub. C.(1)(a) and (b) created to read: "

- (a) For single family or two-family residential development the fee shall be \$2,219 per dwelling unit.
- (b) For multi-family residential development the fee shall be \$1,480 per dwelling unit."

Sub. C.(4): delete "10" and insert "20".

Sub. D. introduction amended to read: "Fire protection and emergency medical facilities. Any developer creating or constructing land development within the city shall pay a fee to the city to provide for the capital costs necessary to accommodate the fire protection and emergency medical facilities' needs of land development, except as provided in Subsection J. below."

Sub. D.(1) amended to read: "(1) The amount of the fee, subject to adjustment pursuant to Subsection K., below, shall be as follows:"

Sub. D. (1) (a), (b), (c), (d), (e) and (f) created to read: "

- (a) For single-family residential development the fee shall be \$115 per dwelling unit.
- (b) For two-family residential development the fee shall be \$58 per dwelling unit.
- (c) For multi-family residential development the fee shall be \$29 per dwelling unit.
- (d) For commercial development the fee shall be \$0.041 per square foot of building space.
- (e) For industrial development the fee shall be \$0.012 per square foot of building space.
- (f) For institutional development the fee shall be \$0.036 per square foot of building space."

Sub. D.(4): delete "10" and insert "20".

Sub. E. introduction amended to read: "Any developer creating or constructing land development within the city shall pay a fee to the city to provide for the capital costs necessary to accommodate the law enforcement facilities' needs of land development, except as provided in Subsection J. below."

Sub. E.(1) amended to read: "(1) The amount of the fee, subject to adjustment pursuant to Subsection K., below, shall be as follows:"

Sub. E.(1) (a), (b), (c),(d) and (e) created to read: "

- (a) For single-family or two-family residential development the fee shall be \$38 per dwelling unit.
- (b) For multi-family residential development the fee shall be \$26 per dwelling unit.
- (c) For commercial development the fee shall be \$0.088 per square foot of building space.
- (d) For industrial development the fee shall be \$0.019 per square foot of building space.
- (e) For institutional development the fee shall be \$0.153 per square foot of building space."

Sub. E. (4): delete "10" and insert "20".

Sub. F.: repeal.

Sub. G.: renumber as Sub. "F."

Sub. F. (as renumbered) introduction: delete "I" and insert "J".

Sub. F. (as renumbered)(1) amended to read: "(1) The amount of the fee per residential dwelling unit to be constructed or created by the proposed development, subject to adjustment pursuant to Subsection K., below, shall be as follows:"

Sub. F. (as renumbered) (1)(a) and (b) created to read: "

- (a) For single-family or two-family residential development the fee shall be \$465 per dwelling unit.
- (b) For multi-family residential development the fee shall be \$310 per dwelling unit."

Sub. F. (as renumbered) (4): delete "10" and insert "20".

Sub. G. created to read: "Transportation Facilities. Any developer creating or constructing land development within the city shall pay a fee to the city to provide for the capital costs necessary to accommodate the transportation facilities needs of land development, except as provided in subsection J. below.

(1) The amount of the fee, subject to adjustment pursuant to Subsection K., below, shall be as follows:

- (a) For single-family or two-family residential development the fee shall be \$43 per dwelling unit.
- (b) For multi-family residential development the fee shall be \$30 per dwelling unit.
- (c) For commercial development the fee shall be \$0.123 per square foot of building space.
- (d) For industrial development the fee shall be \$0.031 per square foot of building space.
- (e) For institutional development the fee shall be \$0.175 per square foot of building space.

(2) The fee shall be imposed as a condition of approval of any building permit for the subject land development and the payment thereof shall be made to the city prior to the issuance of such building permit.

(3) Such fees collected by the city shall be placed in a special fund which shall be separated from the general fund of the city, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of transportation facilities within the city.

(4) Such fees shall be expended by the city for the aforesaid purpose within 20 years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected."

Sub. K. renumber as Sub. "L."

Sub. J. renumber as Sub. "K."

Sub. I. renumber as Sub. "J."

Sub. H. renumber as Sub. "I."

Sub. H. created to read: "Water supply and distribution facilities. Any developer creating or constructing land development within the city shall pay a fee to the city to provide for the capital costs necessary to accommodate the water supply and distribution facilities' needs of land development, except as provided in Subsection J. below.

(1) The water supply and distribution facilities impact fee shall be imposed only upon land within the Franklin Water Utility service area.

(2) The amount of the fee, subject to adjustment pursuant to Subsection K., below, shall be determined as follows:

- (a) The fee for residential development shall be \$929 per dwelling unit.
- (b) The fee for nonresidential development shall be determined as follows:

1. The developer shall submit, on forms provided by the city, a good faith estimation of the intended water usage from the nonresidential development.
2. Based upon the information supplied by the developer under subsection (b)1., above, the city shall calculate the number of residential equivalent connections (RECs) for that development by dividing the estimated average water usage per day by 169 gallons, and shall calculate and impose an interim impact fee of \$929 per REC.
3. Since the impact fee determined under subsections (b)1. and 2., above is based upon estimated intended usage, the city may, anytime within 24 months of the establishment of a nonresidential account, recalculate the impact fee based upon the highest actual quarterly water usage by a nonresidential account.
4. In calculating the number of RECs for a nonresidential development, the city shall determine the applicable number of RECs by using one REC or the actual number of RECs determined for the development, whichever is higher. Any fraction of one REC shall be rounded up to the next one-half of one REC.

(3) The fee shall be imposed as a condition of approval of any building permit for the subject land development, and the payment thereof shall be made to the city prior to the issuance of such building permit.

(4) Such fees collected by the city shall be placed in a special fund which shall be separate from the general fund of the city, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of water supply and distribution facilities within the city.

(5) Such fees shall be expended by the city for the aforesaid purpose within 20 years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected."

Sub. K. (as renumbered), the first two sentences amended to read: "All fees collected and special accounts maintained under this section shall be subject to administration by the City Director of Administration. The Director of Administration shall report annually to the Common Council with regard to all deposits, withdrawals and fund balances in these accounts."

Sub. K. (as renumbered), the last two sentences amended to read: "The impact fees imposed under this section shall be increased annually at the rate of five (5) percent, with the adjustment effective January 1 of each year. The Director of Administration or designee shall calculate the adjusted fees and maintain a copy of the calculation and the adjusted impact fees in the office of the City Clerk."

SECTION 2: §207-22.A. of the Municipal Code of Franklin, Wisconsin, pertaining to water connection fees, be and the same is hereby amended to read as follows:

"A. Fee. All existing buildings connecting to the city water system shall pay at the time application is made for water connection a fee as follows:

- (1) For all residential dwellings, \$929 per dwelling unit.
- (2) For commercial, manufacturing and industrial and institutional buildings, the fee shall be determined as follows:

(a) The property owner shall submit, on forms provided by the city, a

good faith estimation of the intended water usage from the nonresidential building.

- (b) Based upon the information supplied by the property owner under Subsection (2)(a) above, the city shall calculate the number of residential equivalent connections (RECs) for the property by dividing the estimated average water usage per day by 169 gallons, and shall calculate and impose an interim impact fee of \$929 per REC.
- (c) Since the connection fee determined under Subsections (2)(a) and (b) above is based upon estimated intended usage, the city may, anytime within 24 months of the establishment of a nonresidential account, recalculate the connection fee based upon the highest actual quarterly water usage by a nonresidential account.
- (d) In calculating the number of RECs for a nonresidential property, the city shall determine the applicable number of RECs by using one REC, or the actual number of RECs determined for the development, whichever is higher. Any fraction of one REC shall be rounded up to the next one-half of one REC.

(3) The connection fee imposed under this Section shall be increased annually at a rate of five (5) percent, with the adjustment effective January 1 of each year. The City Director of Administration or designee shall calculate the adjusted fee and maintain a copy of the calculation and the adjusted connection fee in the office of the City Clerk."

SECTION 3: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

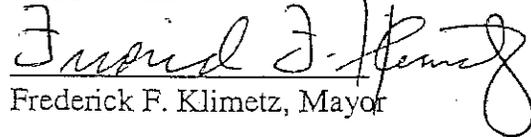
SECTION 4: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 5: This ordinance shall take effect and be in force from and after its passage and publication. (May 31, 2002)

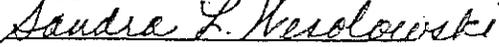
Introduced at a regular meeting of the Common Council of the City of Franklin this 7th day of May, 2002, by Alderman Taylor.

PASSED AND ADOPTED at a regular meeting of the Common Council of the City of Franklin this 7th day of May, 2002.

APPROVED:


Frederick F. Klimetz, Mayor

ATTEST:


Sandra L. Wesolowski, City Clerk

AYES 5 NOES 1 ABSENT 0
(Ald. Ryan)