

**DRAFT**

STATE OF WISCONSIN    CITY OF FRANKLIN    MILWAUKEE COUNTY

ORDINANCE NO. 2015-\_\_\_\_\_

AN ORDINANCE TO AMEND §92-9 OF THE MUNICIPAL CODE PERTAINING TO  
IMPACT FEES FOR PARKS, PLAYGROUNDS, AND OTHER RECREATIONAL  
FACILITIES AND PERTAINING TO REFUND OF IMPACT FEES PROCEDURES

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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, such fees having been enacted and amended, respectively, pursuant to Ordinance No. 2002-1712, An Ordinance To Amend §92-9 of the Municipal Code Pertaining to Impact Fees, such Ordinance having been adopted pursuant to a public facility needs assessment, as contemplated by §66.0617(4), Stats., as entitled “Impact Fee Study” and as prepared by Ruekert/Mielke and dated April 2002; and

WHEREAS, such fees having been enacted and amended, respectively, pursuant to Ordinance No. 2004-1790; Ordinance No. 2014-2128, An Ordinance to Amend §92-9 of the Municipal Code Pertaining to Impact Fees to Suspend for 2014 Automatic Annual Rate Increases for Each of the Various Impact Fee Rates; and Ordinance No. 2013-2117, An Ordinance To Amend §92-9 of the Municipal Code Pertaining to Impact Fees For Parks, Playgrounds, and Other Recreational Facilities, such Ordinance having been adopted pursuant to a public facility needs assessment, as amended, as contemplated by §66.0617(4), Stats., as entitled “Impact Fee Study,” as prepared by Ruekert/Mielke and dated April 2002, and as amended pursuant to the “Amendment to the 2002 Impact Fee Study & the 2004 Impact Fee Update” dated September 2013, as also prepared by Ruekert/Mielke; and

WHEREAS, the Common Council approved Resolution No. 2015-7051 on January 6, 2015, A Resolution for Adoption of the Comprehensive Outdoor Recreation Plan: 2030 for the City of Franklin, Milwaukee County, Wisconsin, directed staff on January 20, 2015, to prepare further amendments to the Comprehensive Outdoor Recreation Plan, and continues to publicly pursue various park development opportunities; and

WHEREAS, such updated public facility needs assessment and study having been completed by Ruekert/Mielke, entitled “Amendment to the 2002 Impact Fee Study, the 2004 Impact Fee Update, & the 2013 Impact Fee Update,” was reviewed by staff, who recommends approval thereof but maintaining the related current impact fees, which are lower than allowable, pending future update of the other classifications of City of Franklin impact fees; and

WHEREAS, a public hearing was held before the Common Council on May 19, 2015, to receive public input upon the proposed changes to the impact fee ordinance as set forth in the

aforesaid “Amendment to the 2002 Impact Fee Study, the 2004 Impact Fee Update, & the 2013 Impact Fee Update;” and

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

WHEREAS, adoption of this ordinance based upon the prepared amendment to the Impact Fee Study, which has been received and accepted as incorporated into a revised public facilities needs assessment, will have the effect, in summary part, of modifying the public facilities for which capital costs may be partially funded by Parks, Playgrounds, and Land for Athletic Fields impact fees; of increasing the maximum allowable amount for Parks, Playgrounds, and Land for Athletic Fields impact fees; of updating the refund of impact fees procedures for consistency with state statutes; and of replacing the phrase “recreational facilities” with “land for athletic fields” consistent with Wisconsin Statute 66.0617; and

WHEREAS, adoption of this ordinance does not amend or alter the current applied Parks, Playgrounds, and Land for Athletic Fields impact fees, which are as follows: \$2,957 per dwelling unit for single-family or two-family residential development and \$2,040 per dwelling unit for multi-family residential development; and

WHEREAS, the Common Council having found and determined that the proposed impact fees as adopted or as 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 the length of the planning and financing periods are reasonable periods 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 actual capital costs or 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 C. of the Municipal Code of Franklin, Wisconsin be deleted in its entirety and replaced with the following:

“C. Parks, playgrounds, and land for athletic fields. Any developer creating or constructing additional residential dwelling units within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the parks, playgrounds, and land for athletic fields needs of land development, except as provided in Subsection J below.

(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:

(a) For single-family or two-family residential development, the fee, effective January 1, 2015, shall be \$2,957 per dwelling unit.

(b) For multi-family residential development, the fee, effective January 1, 2015, shall be \$2,040 per dwelling unit.

(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 or upon the issuance of such building permit.

(3) 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 parks, playgrounds and land for athletic fields within the City.

(4) Such fees shall be expended by the City for the aforesaid purpose prior to the deadline whereupon a refund is required in accordance with Subsection N below, or such fee amount paid shall be refunded to the current owner(s) of the property with respect to which such fee was collected, along with any interest that has accumulated, as described in Subsection N below.”

SECTION 2: §92-9 N. of the Municipal Code of Franklin, Wisconsin be created as follows:

“N. Refund of Impact Fees.

(1) Subject to pars. (2), (3), and (4), and with regard to an impact fee that is collected after April 10, 2006, impact fees that are collected by the City before April 11, 2013, but are not used within 10 years to pay the capital costs for which they were imposed, shall be refunded to the current owner(s) of the property with respect to which the impact fees were imposed, along with any interest that has accumulated. Except as may be specified within Subsections C through I above, 10 years, being an appropriate planning and financing period for general governmental capital expenditures, shall be the reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the extended time period specified in par. (2).

(2) The 10-year time limit for using impact fees that is specified under par. (1) may be extended for 3 years if the City adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the 10-year limit, the City

needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

(3) An impact fee that was collected before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner(s) of the property with respect to which the impact fee was imposed, along with any interest that has accumulated.

(4) With regard to an impact fee that is collected after April 10, 2013, such impact fees shall be used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed, or they shall be refunded to the current owner(s) of the property with respect to which the impact fees were imposed, along with any interest that has accumulated. Except as may be specified within Subsections C through I above, 10 years, being an appropriate planning and financing period for general governmental capital expenditures, shall be the reasonable time periods within which impact fees must be spent or refunded under this paragraph, except that specifying such reasonable time period shall not preclude the City from amending the term of the reasonable period after receipt of any such fee for a period not to exceed 3 years and due to extenuating circumstances or hardship in meeting the reasonable time period, provided the City adopts a resolution that shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.”

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.

Introduced at a regular meeting of the Common Council of the City of Franklin this 19th day of May, 2015, by Alderman\_\_\_\_\_.

PASSED AND ADOPTED at a regular meeting of the Common Council of the City of Franklin this 19th day of May, 2015.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

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Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_