

ORDINANCE 2020-08

AN ORDINANCE TO AMEND THE MUNICIPAL CODE CONCERNING PARK IMPACT FEES, PARKLAND DEDICATION, AND FEES IN LIEU OF PARKLAND DEDICATION.

Purpose: To amend the Municipal Code to revise the regulations concerning park impact fees and fees in lieu of land dedication.

Sponsor: Community & Economic Development Director Bremer

Recommended Referral: Plan Commission & Park, Recreation & Natural Resource Committee

Public Hearing: Required; Preceded by Class 2 Notice

WHEREAS, the Village of McFarland currently imposes an impact fee for park improvements and requires land dedication for parks, or fees in lieu of land dedication, to accommodate the impact of land development; and

WHEREAS, the Village recently completed a needs assessment for park impact fees, which included an inventory of existing park lands and improvements, as well as the anticipated need for the same caused by further residential development; and

WHEREAS, Village staff has proposed amending the Municipal Code to reflect the findings of the new needs assessment and to comply with recent changes in the law concerning park land dedication and fees in lieu of park land dedication; and

WHEREAS, the Village Board agrees with the recommendations, and that the proposed amendments are in the public interest;

NOW, THEREFORE, the Village Board of the Village of McFarland, does ordain as follows:

1. Section 8-462 of the McFarland Municipal Code is created to reflect the following:

Sec. 8-462. – Definitions.

As used in this Article, multifamily residential units and multifamily residential dwelling units include duplexes and group quarters dwelling units. A group quarters dwelling unit is a dwelling unit where individuals live or stay that is owned or managed by an entity or organization providing housing and/or services for the residents. The services may include, but are not limited to, custodial or medical care and other types of assistance. Residency is restricted to the individuals receiving the services, and the individuals typically do not participate in the labor force while a resident. Typically, a group quarters dwelling unit has one resident per unit.

2. Section 8-464 of the McFarland Municipal Code is amended to reflect the following:

Sec. 8-464. - Park impact fees.

- (a) No building permit for a residential development shall be issued unless the impact fees provided in this section have been paid.
- (b) *Park Improvement Impact Fee.* A park improvement impact fee shall be collected at the time a building permit is issued for construction of all new single-family and multifamily residential dwelling units, condominium units, and additions that increase the number of dwelling units on a lot.
- (c) *Park-Land Impact Fee.* A park-land impact fee shall be collected for construction of all new single-family and multifamily residential dwelling units, condominium units, and additions that increase the number of dwelling units on a lot. If the Village accepts dedication of parkland from the developer, the fee required under this paragraph shall apply only with respect to the number and type of dwelling units in excess for which the land dedication was made.

The park-land impact fee shall be payable upon execution of a development agreement required by ordinance by the developer, unless otherwise provided in such agreement, or as otherwise provided by law. In developments in which the improvements will be constructed, or sales will occur in phases, the Plan Commission may establish an alternate time schedule for payment of the park-land impact fee. In cases where no development agreement is required by ordinance, the fee shall be tendered with a building permit application. The fee may be paid at other times as may be required by the Village and permitted by law.

- (d) The following shall be exempt from any park impact fee:
 - (1) Additions that do not increase the number of dwelling units;
 - (2) Tear-downs and replacement of dwelling units with the same number of dwelling units, for which the park impact fee has already been paid.
 - (3) Developments for which the park impact fee has already been paid, and in the case of the park-land impact fee, a sufficient land dedication has been made by the developer acceptable to the Village.
 - (4) Those developments determined by the Village Board to warrant a waiver or partial waiver of a park impact fee for the purpose of developing affordable housing.
- (e) The park improvement impact fee and the park-land impact fee shall be as established by the Village Board from time to time and provided in Appendix A to this Code. Unless modified further by the Village Board, the fee shall be adjusted annually on January 1st by the Community Development Director utilizing the Consumer Price Index—All Urban Consumers-Midwest Region prepared by the United States Department of Labor.

3. Division 5, Impact Fees, of Chapter 23 of the McFarland Municipal Code, is amended to reflect the following:

DIVISION 5. - IMPACT FEES

Sec. 23-117. - Intent and purpose.

This Division is intended to allocate financial burdens of providing public facilities fairly between residents living in the Village at the time of adoption of the ordinance from which this Division is derived and owners of existing development projects in the Village and developers of new land developments, as well as to comply with Wis. Stats. § 66.0617. The Village Board is adopting this Division to provide a means to recover the cost of development beyond that already existing to finance public facilities by other means authorized by law as authorized under Wis. Stats. § 66.0617(2)(b), including, without limitation because of enumeration herein, Wis. Stats. §§ 236.45, and Chapter 56.

Sec. 23-118. - Established fees.

The following fees are impact fees established by the Village pursuant to Wis. Stats. § 66.0617:

- (a) Public water impact fees pursuant to Section 8-463.
- (b) Park improvement impact fees pursuant to Section 8-464.
- (c) Park-land impact fee pursuant to Section 8-464.
- (c) Public library impact fees pursuant to Section 8-465.

Sec. 23-119. - Needs assessments; revenues; time periods; installment payments; appeals.

- (a) The following Village documents contain the needs assessments for the impact fees identified under Section 23-118, and demonstrate Village compliance with the requirements of Wis. Stats. § 66.0617(4):
 - (1) Public Facilities Needs Assessment for Public Water Impact Fees prepared by Town & Country Engineers dated December 9, 1997;
 - (2) Report on Impact Fees prepared by Virchow, Krause & Company dated December 9, 1997, as amended by Report dated February 21, 2002;
 - (3) Park Impact Fee, Fee in Lieu of Land Dedication and Public Facility Needs Assessment prepared by Baker Tilly Virchow Krause, LLP dated January 27, 2020; and
 - (4) Public Facilities Needs Assessment for Public Library Impact Fees prepared by Virchow Krause & Company, LLP dated March 7, 2006.
- (b) Revenues collected by the Village as impact fees shall be placed by the Village Clerk-Treasurer in separate segregated interest-bearing accounts, and shall be accounted for separately from other funds of the Village. Impact fee revenues and interest earned on impact fee revenues may be expended by the Village only for the particular capital costs for which the impact fee was imposed, and shall be expended on a first-in first-out basis. Separate accounts shall be kept of fees collected from different impact fee zones, where the particular impact fee ordinance provides for differential fees according to zones, and revenues collected in particular zones shall be spent in those zones as appropriate.

- (c) All fees collected under this Section shall be spent or refunded to the current property owner within the time set forth in the study prepared under Subsection (a) of this Section, but no later than the maximum time period permitted by law.

Fees held by the Village and not used within the time period specified herein or pursuant to Wis. Stats. § 66.0617(9) shall be refunded to the current owner of record of the property at the time of the refund with respect to which the impact fees were imposed along with any interest that has accumulated.

- (d) The Village Board may authorize the payment of impact fees otherwise payable in full at the time of the issuance of a building permit in installment payments. If installment payments are authorized, interest shall be paid on the installment payments at the same rate charged by the Village on installments of special assessments.
- (e) A "developer," as defined in Wis. Stats. § 66.0617(1)(b), may appeal to contest the amount, collection or use of the impact fee in the manner provided herein:
- (1) It shall be a condition to the commencement of such an appeal that the impact fee from which the developer appeals shall be paid as and when the fee becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.
 - (2) The only questions appealable under this Section are the following, as authorized by Wis. Stats. § 66.0617(10):
 - a. The amount of fee charged and paid by the developer;
 - b. The method of collection of the impact fee;
 - c. The use to which the particular fee paid by the developer is made by the Village.
 - (3) Appeals must be brought within thirty (30) days of the date of payment of the impact fee.
 - (4) The appellant shall pay the filing fee stated in the fee schedule established by the Village Board from time to time and provided in Appendix A to this Code at the time of filing of the appeal. The notice of appeal shall be filed with the Village Administrator.
 - (5) Following the filing of the notice of appeal, the Village Administrator shall compile a record of the ordinance imposing the impact fee that is the subject of the appeal, a record of the management and expenditure of the proceeds of the impact fee, and shall transmit these documents to the Village Board. In consultation with the Village departments, the Village Administrator shall also compile a report on each appeal in which the appellant is seeking a reduction or total refund of the impact fee paid. This report shall specify the fiscal impact on the Village if the appeal overturns the impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by development on the appellant's property, the report shall estimate whether it will be necessary for the Village to adjust impact fees, or amend existing ordinances to recover the proposed revenue shortfall.
 - (6) The Village Board shall hold a public hearing on the appeal, preceded by a class 1 notice, providing fair opportunity for the appellant to be heard. The burden shall be on the appellant to establish illegality or impropriety of the fee from which the appeal has been taken. Following the close of the public hearing, the Village Board shall deliberate upon

the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal.

- (7) If the Village Board determines that the appeal has merit, it shall determine appropriate remedies. These may include reallocation of the proceeds of the challenged impact fee to accomplish the purposes for which the fee was collected, refunding the impact fee in full or in part, along with interest collected by the Village thereon, or granting the appellant the opportunity to make the impact fee payment installments, or such other remedies as it deems appropriate in a particular case.

4. Article VI. – Park and Public Land Dedications, of Chapter 56 of the McFarland Municipal Code, is amended to reflect the following:

ARTICLE VI. - PARK AND PUBLIC LAND DEDICATIONS

Sec. 56-172. - General requirements.

- (a) *Dedication requirement.* In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas, such as but not limited to, parks and recreation areas, may be equitably apportioned on the basis of additional need created by development, each subdivider shall be required to reserve land, dedicate parkland or pay impact fees, or some combination thereof, pursuant to Sections 56-173 through 56-176 of this Code, and Section 8-464 and Sections 23-117 through 23-119 of this Code, incorporated into this Chapter by reference.
- (b) *General design.* In the design of a Subdivision, Certified Survey Map, planned unit development or condominium project, provisions shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainageways and other public purposes. Such sites are to be shown on the Preliminary Plat and Final Plat, or map, and shall comply with the Village Comprehensive Plan or component of said plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities, as recommended by the Village Engineer and Plan Commission, and approved by the Village Board.

Sec. 56-173. - Land dedication.

- (a) *Required Land Dedication.* The subdivider shall dedicate usable land to provide park, playground, recreational and open space to meet the needs to be created by the Subdivision, land division, or development project in accordance with the standards set forth in this Article, subject to approval by the Village Board. Whenever a proposed park, playground, or other public land, other than streets or drainageways, is designated in the Village Comprehensive Plan and Outdoor Recreation & Open Space Plan is included, all or in part, in a tract of land to be subdivided, these proposed public lands shall be dedicated to the public by the subdivider. The parkland dedication shall meet the service standard of 2,106 square feet per single family dwelling unit, 1,463 square feet per multi family dwelling unit, including apartments and duplexes, and 804 square feet per group quarters dwelling unit, determined by the number and types of dwelling units in the proposed development and the

most current needs assessment. The dedication shall be made part of the Plat or Certified Survey Map.

- (b) *Park-land Impact Fee in Lieu of Parkland Dedication.* The Plan Commission may determine in any proposed Subdivision or other land division that, based on an evaluation of the proposed dedication against the Village's Comprehensive Plan and Outdoor Recreation & Open Space Plan, and any other policies adopted by the Village Board, the subdivider shall pay the park-land impact fee in lieu of dedicating parklands. If the Plan Commission determines that a proposed dedication meets some but not all the usable land criteria, the Plan Commission may recommend, and the Village Board may approve, acceptance of that land with partial credit to the land dedication requirement.
- (c) *Other Land Dedications.* Whenever a tract of land to be subdivided embraces all or any part of an arterial street, collector street, drainageway or other public way that has been designated in the Village Comprehensive Plan, said public way shall be dedicated by the subdivider in the locations and dimensions indicated on said plan, and made part of the Plat or Certified Survey Map.
- (d) *Shoreland.*
 - (1) *Public Access.* All Subdivisions abutting on a navigable lake or stream shall provide public access at least 60 feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half-mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the Wisconsin Department of Natural Resources and the Wisconsin Department of Administration, and excluding shore areas where public parks or open-space streets or roads on either side of a stream are provided. No public access established under this Chapter may be vacated except by Circuit Court action. This Subsection does not require the Village to improve land provided for public access.
 - (2) *Lake and stream shore plats.* The lands lying between the meander line, established in accordance with Wis. Stats. § 236.20(2)(g), and the water's edge, and any otherwise unplattable lands that lie between a proposed Subdivision and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream. This Subsection applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which the subdivider holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.
- (e) *Unknown number of dwelling units.* Where the plat, certified survey, or condominium does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the Village Zoning Chapter and this Chapter.
- (f) *Access to dedicated land.* All dedicated land shall have frontage on a public street and shall have unrestricted public access.

Sec. 56-174. - Reservation of additional land.

When public parks and sites for other public areas as shown on the Comprehensive Plan lie within the proposed area for development and are greater in area than required by Section 56-

173, the owner shall reserve for acquisition by the Village, through agreement, purchase or condemnation, the remaining greater public area for a period of three years of Final Plat approval unless extended by mutual agreement.

Sec. 56-175. - Development of park area.

- (a) When parklands are dedicated, the subdivider is required to:
 - (1) Properly grade and contour for proper drainage;
 - (2) Provide surface contour suitable for anticipated use of area;
 - (3) Cover areas to be seeded with a minimum of four inches of quality topsoil, seed as specified by the Director of Public Works, fertilized with 16-6-6 at a rate of seven pounds per 1,000 square feet, and mulched. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline; and
 - (4) Install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land.
- (b) The Village Board may require certification of compliance by the Village Engineer. The cost of such report shall be paid by the subdivider.
- (c) Grading and seeding of parklands is to be completed as soon as ten percent (10%) of the planned lots in the Subdivision are sold, as determined by the Village Board.
- (d) If the subdivider fails to satisfy the requirements of this Section, the Village Board may contract said completion and bill such costs to the subdivider, following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

Sec. 56-176. – Credit toward Park-land Impact Fee.

Parkland dedicated and accepted by the Village shall act as a credit toward any required Park-land impact fee, pursuant to Section 8-464, in an amount determined by the Community Development Director, consistent with the needs assessment and the amount of the park-land impact fee.

5. Section 62-64 of the McFarland Municipal Code is repealed.

6. Appendix A of the McFarland Municipal Code is amended to reflect the following amounts for park impact fees.

8-464(b) Park improvement impact fee:

| Type of dwelling unit: | Amount: |
|------------------------|------------|
| Single-Family | \$1,099.65 |
| Multi-Family | \$712.52 |
| Group Quarters | \$551.51 |

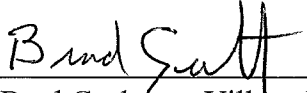
8-464(b) Park-land impact fee (also known as fees in lieu of parkland dedication):

| | |
|------------------------|------------|
| Type of dwelling unit: | Amount: |
| Single-Family | \$3,915.46 |
| Multi-Family | \$2,719.90 |
| Group Quarters | \$1,494.45 |

Reference to fees in lieu of parkland dedication under 56-176 are removed from Appendix A.


The above and foregoing Ordinance was duly adopted at a regular meeting of the McFarland Village Board on the 24th day of February, 2020.

APPROVED:



 Brad Czebótar, Village President

ATTEST:



 Cassandra Suettinger, Village Clerk-
 Treasurer

| ORDINANCE 2020 – 08 | |
|--------------------------|---------------|
| MOTION | SECOND |
| Czebotar | Kolk |
| ACTION | DATE |
| Adopted | 02/24/2020 |
| Referred | |
| Tabled | |
| Withdrawn | |
| Defeated | |
| Published | |
| INDIVIDUAL VOTING RECORD | |
| Adrian-Aye | Kryzenske-Aye |
| Brassington-Aye | Lytle-Absent |
| Czebotar-Aye | Utter-Nay |
| Kolk-Aye | |
| VOTING RESULTS | |
| Motion Carried | 5-1 |
| Motion Defeated: | |