



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 16-037

AN ORDINANCE CREATING SECTION 94.16.18(5) OF THE ZONING ORDINANCE ENTITLED *PARKLAND FEES*.

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, in administering this new Chapter 94, Village staff has found the municipal ordinances do not adequately address the ability to collect parkland dedication fees for developments not requiring a land division per Chapter 74 *Subdivision Regulations* and have proposed an amendment to address this need; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance, on August 8, 2016, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, does ordain as follows:

SECTION 1: Chapter 94 Zoning Ordinance is hereby amended to provide as follows:

**Section 94.16.18: Fees**

**(5) Parkland Fees.**

- (a) **Authority.** Wis. Stat. § 62.23(7), confers upon the Village the authority to regulate and restrict by ordinance, land uses in the manner provided for therein, for the purposes of, among other

things, “. . . to facilitate schools, parks and other public requirements . . .” and that any such ordinance so executed shall be liberally construed in favor of the Village.

- (b) **Purpose and Intent.** The development of lands within the Village for residential uses creates demands upon the Village to provide, among other things, adequate provision for parks. As the resident population of the Village increases due to such development, the need to acquire and equip parks must be addressed. Accordingly, the following provisions are established to preserve and provide properly located public sites and open spaces as the Village develops, and to insure that such public sites and open spaces are provided and developed to serve the need for parks generated by the additional persons brought into the areas by such development, in accordance with standards for such as adopted in the Village’s comprehensive outdoor recreation plan, as approved from time to time. These provisions are intended to apply to all lands proposed to be rezoned or subject to a conditional use permit or site plan approval for any residential purpose on or after August 1, 2016.
- (c) **Implementation.** The Village intends to implement the public policies contained herein, through the provisions of this Section or Chapter 74 *Subdivision Regulations* of this Code of Ordinances, whichever is applicable. In the event that land dedication pursuant to Chapter 74 *Subdivision Regulations* would result in sites too small to be usable or if the Village’s comprehensive outdoor recreation plan calls for such public sites or open spaces to be located elsewhere, or if such sites would not otherwise be suitable for park purposes as determined by the Plan Commission or the Village Board, a payment of a park fee in lieu of land dedication shall be required, as hereinafter set forth. Payment of such fee shall be a condition precedent to the approval of the rezoning of any lands for the residential uses described in (b) above.
- (d) **Fee Calculation.** Whenever a park fee is imposed by the site plan approval authority as a condition of rezoning, conditional use permit, or site plan approval, the park fees shall be computed on the basis of the maximum residential use of each lot or residential building site approved or permitted in the particular zoning district under this Zoning Code. The amount of the park fee shall be determined by application of the following formula:
- A x B = Park Fee
- Where:
- A = the maximum number of residential units in the applicable residential zoning district that may be located on the land area in question, or the specific number of housing units authorized by the conditional use permit or site plan approval.
- B = the Zoning Fee as stated in the Schedule of Fees per residential unit.
- (e) **Payment.** Payment of the park fee shall be due and payable at the time of the issuance of a building permit for the construction of any improvement on the real estate subject to the site plan approval. Such fee shall be deposited into a special account for parks and recreation facilities and shall be used exclusively for such purposes in the Village.
- (f) **Partial Dedication.** Where the Village Board, in its sole discretion, permits a developer of land to satisfy the requirements of Chapter 74 *Subdivision Regulations* of this Code by dedicating a portion of the land that would otherwise be required to be dedicated under that section, then in such event, the Village Board may reduce the park fee provided for in this Section, in recognition of the partial dedication that has in fact occurred. Such reduction shall be in proportion to the percent of total required park land dedication.

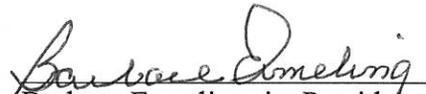
SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

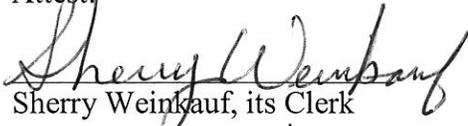
SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 15<sup>th</sup> day of August, 2016

WESTON VILLAGE BOARD

By:   
Barbara Ermeling, its President

Attest:

  
Sherry Weinkauff, its Clerk

APPROVED: 8/15/16

PUBLISHED: 8/18/16

## Notice of Newly Enacted Ordinances

Please take notice that the Village Board of Weston, Wisconsin enacted on August 15, 2016, the following Ordinances:

1. Ordinance No: 16-032 An Ordinance Creating Section 94.4.10(14) of the Zoning Ordinance Entitled Temporary Asphalt, Batch or Concrete, Stone Crushing and/or Processing Operations and adding the new temporary land use category within the Charts Displayed in Figures 3.04 and 3.05 of the Village Zoning Ordinance.
2. Ordinance No. 16-034 An Ordinance Amending Section 94.4.09(2) of the Zoning Ordinance Entitled Detached Accessory Structure (For Residential Use).
3. Ordinance No. 16-035 An Ordinance Amending Figure 5.01(1) of the Village Zoning Ordinance Entitled Rural, Open Space and Residential District Lot Dimension and Intensity Standards.
4. Ordinance No. 16-036 An Ordinance Amending Section 94.3.05: Figure 3.05 of the Village Zoning Ordinance Entitled Allowable Uses in Non-Residential and Mixed Use Zoning Districts.
5. Ordinance No. 16-037 An Ordinance Creating Section 94.16.18(5) of the Zoning Ordinance Entitled Parkland Fees.

The full text of Ordinances may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov/499/Adopted-Ordinances>.

Dated this 18<sup>th</sup> day of August, 2016  
Sherry Weinkauff, Village Clerk

Published: 8/18/16

**Village of Weston, Wisconsin  
AGENDA ITEM COVERSHEET  
Requested for Official Consideration and Review**

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REQUEST FROM: **JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT**

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ITEM DESCRIPTION: **ORDINANCE NO. 16-037 AN ORDINANCE CREATING SECTION 94.16.18(5) OF THE ZONING ORDINANCE ENTITLED *PARKLAND FEES*.**

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DATE/MTG: **BOARD OF TRUSTEES; MONDAY, AUGUST 15, 2016**

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POLICY QUESTION: Should the Board of Trustees approve the amendment to the zoning ordinance as proposed by the Plan Commission/ETZ Committee?

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RECOMMENDATION TO: I make a motion to approve Ordinance No. 16-037.

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LEGISLATIVE ACTION:

- |   |   |                                       |
|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> Acknowledge/Approve | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order           | <input type="checkbox"/> Policy               | <input type="checkbox"/> Reports      |
| <input type="checkbox"/> Expenditure                    | <input type="checkbox"/> Procedure            | <input type="checkbox"/> Resolution   |
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FISCAL IMPACT ANALYSIS:

- |  |     |
|--|-----|
| <input type="checkbox"/> Budget Line Item:     | N/A |
| <input type="checkbox"/> Budget Line Item:     | N/A |
| <input type="checkbox"/> Budgeted Expenditure: | N/A |
| <input type="checkbox"/> Budgeted Revenue:     | N/A |
- 

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STATUTORY / RULEMAKING / POLICY REFERENCES:

- |   |  |
|---|--|
| <input type="checkbox"/> WI Statute:                | _____  |
| <input type="checkbox"/> WI Administrative Code:    | _____  |
| <input type="checkbox"/> Case Law / Legal:          | _____  |
| <input checked="" type="checkbox"/> Municipal Code: | Chapter 74 Subdivision Regulations and 94 Zoning |
| <input type="checkbox"/> Municipal Rules:           | _____  |
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PRIOR REVIEW: Public Hearing at the 8/8/16 Plan Commission/ETZ Committee Meeting

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BACKGROUND:

Currently Chapter 74 Subdivision Regulations allows for parkland dedication fees to be collected at time of land division. In some circumstances you could have a residential development which does not require a land division ie. an apartment complex development on a large parcel. To ensure that we are able to obtain parkland dedications or fees in lieu of the land dedication provisions were needed in the Zoning Ordinance as the Subdivision Regulations did not address this need. Staff worked with MDRoffers to adjust the ordinance and the proposed amendment is the results of this collaboration.

Staff recommends approval. Fees are set by the Village Fee Schedule so they will be the same as charged for a CSM or a Subdivision.

- Attachments – Ord. No. 16-037

**Village of Weston, Wisconsin**  
**AGENDA ITEM COVERSHEET**  
**Requested for Official Consideration and Review**

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REQUEST FROM: **JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT**

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ITEM DESCRIPTION: **ORDINANCE NO. 16-037 AN ORDINANCE CREATING SECTION 94.16.18(5) OF THE ZONING ORDINANCE ENTITLED *PARKLAND FEES*.**

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DATE/MTG: **PLAN COMMISSION/ETZ COMMITTEE; MONDAY, AUGUST 8, 2016**

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POLICY QUESTION: Should the Board of Trustees approve the amendment to the zoning ordinance as proposed by the Plan Commission/ETZ Committee?

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RECOMMENDATION TO: I make a motion to endorse approval, and recommend to the Trustees.

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LEGISLATIVE ACTION:

- |   |                                    |                                       |
|---|------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> Acknowledge/Approve | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order           | <input type="checkbox"/> Policy    | <input type="checkbox"/> Reports      |
| <input type="checkbox"/> Expenditure                    | <input type="checkbox"/> Procedure | <input type="checkbox"/> Resolution   |
- 

FISCAL IMPACT ANALYSIS:

- |  |     |
|--|-----|
| <input type="checkbox"/> Budget Line Item:     | N/A |
| <input type="checkbox"/> Budget Line Item:     | N/A |
| <input type="checkbox"/> Budgeted Expenditure: | N/A |
| <input type="checkbox"/> Budgeted Revenue:     | N/A |
- 

STATUTORY / RULEMAKING / POLICY REFERENCES:

- |   |   |
|---|---|
| <input type="checkbox"/> WI Statue:                 | _____   |
| <input type="checkbox"/> WI Administrative Code:    | _____   |
| <input type="checkbox"/> Case Law / Legal:          | _____   |
| <input checked="" type="checkbox"/> Municipal Code: | <u>Chapter 74 Subdivision Regulations and 94 Zoning</u> |
| <input type="checkbox"/> Municipal Rules:           | _____   |
- 

PRIOR REVIEW: None

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BACKGROUND:

Currently Chapter 74 Subdivision Regulations allows for parkland dedication fees to be collected at time of land division. In some circumstances you could have a residential development which does not require a land division ie. an apartment complex development on a large parcel. To ensure that we are able to obtain parkland dedications or fees in lieu of the land dedication provisions were needed in the Zoning Ordinance as the Subdivision Regulations did not address this need. Staff worked with MDRoffers to adjust the ordinance and the proposed amendment is the results of this collaboration.

Staff recommends the PC approve the ordinance amendment and forward to the Board of Trustees for final considerations and adoption.

- Attachments – Ord. No. 16-037