



## OFFICIAL PUBLIC HEARING NOTICE

By: Common Council

Date and Time: June 6, 2023, at 7:45 p.m.

Location: City Hall, Common Council Chambers  
2000 N. Calhoun Road, Brookfield WI

Applicant: City of Brookfield  
Contact: Assistant City Attorney Julie Aquavia

Request/Content: Repeal and amend provisions in Section 16.16.010 “Public sites and open space” regarding wetland dedication requirements.

Dated this 18th day of May 2023.

Michelle Luedtke  
Brookfield City Clerk

Post/Publish Date: May 23 and May 30, 2023

ANY PERSON WHO HAS A QUALIFYING DISABILITY AS DEFINED BY THE AMERICANS WITH DISABILITY ACT THAT REQUIRES THE MEETING OR MATERIALS TO BE IN AN ACCESSIBLE LOCATION OR FORMAT, MAY CONTACT THE CITY CLERK AT (262)782-9650 OR 2000 NORTH CALHOUN ROAD, FOR ACCOMMODATIONS. REQUESTS FOR ACCOMMODATIONS FOR MEETINGS SHOULD BE MADE AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE MEETING. EVERY EFFORT WILL BE MADE TO ARRANGE ACCOMMODATIONS FOR ALL MEETINGS.

*Note: It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in this notice.*

**PUBLIC HEARING VERSION**

**For review purposes only**

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Committee: Legislative and Licensing

Committee Date: May 2, 2023

Committee Recommendation: 5 ayes – 0 nays

Committee: Plan Commission

Committee Date: May 8, 2023

Committee Recommendation: 7 ayes – 0 nays

Public Hearing: June 6, 2023

Council Date: June 6, 2023

Council Action: [Appr/Deny #-#]

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Repeal Sections 15.28.010 and 17.100.100; Repeal and Recreate 15.28.020;  
and Amend 16.16.010 regarding Wetland Impact Fees and Dedication  
Requirements

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WHEREAS, in the process of reviewing various development plans and updating Code provisions with other City Departments, the City Attorney's office has reviewed the City's impact fees and dedication requirements; and

WHEREAS, as a result of this review, the bikeway and park impact fees and dedications were repealed; and

WHEREAS, the City Attorney's office continued its review of the wetland impact fee and dedication requirements and recommends repealing as they are not supported as required by case law and Wisconsin Statutes; and

WHEREAS, the Legislative and Licensing Committee reviewed the City Attorney's recommendation regarding Title 15 at its May 2, 2023, meeting and voted to recommend that the Common Council adopt the changes; and

WHEREAS, the Plan Commission reviewed the proposed changes to §16.16.010 at its May 8, 2023, meeting and voted to recommend that the Common Council adopt the changes; and

WHEREAS, changes to Subdivision regulations (Title 16) require a public hearing pursuant to Wisconsin Statutes, § 236.45; and

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WHEREAS, implementing an impact fee requires a public hearing pursuant to Wisconsin Statutes §66.0617, but is not required to repeal an impact fee; and

WHEREAS, the Mayor authorized consideration of the amendment of Section 16.16.010 by the Common Council on the same night as the public hearing pursuant to Resolution 10302-22; and

WHEREAS, a public hearing was held before the Common Council on June 6, 2023.

*Now therefore, the Common Council of the City of Brookfield do ordain as follows:*

**PART I.** Repeal Sections 15.28.010 and 17.100.100.

**PART II.** Repeal and recreate §15.28.020 as §3.04.060 to read as follows:

~~15.28.020~~ 3.04.060 Impact fee administration.

~~A.—At the time that the municipality collects an impact fee, it shall provide to the developer from which it received the fee an accounting of how the fee will be spent.~~

~~BA.~~ ~~4.~~ Revenues collected as impact fees shall be placed by the City Treasurer in separate, segregated interest-bearing accounts and shall be accounted for separately from other funds of the City. Impact fee revenues and interest earned on impact fee revenues may be expended on a first-in, first-out basis by the City only for the capital costs as defined at Wis. Stats. §66.0617(1)(a) for which the impact fees were imposed.

~~2.~~ Fees ~~that are~~ held by the City and not used within ~~the eight-years~~ after they are collected ~~time period specified by Section. 66.0617(9), Wisconsin Statutes,~~ to pay the indicated capital costs ~~shall~~ must be refunded to the property owner of record at the time of refund plus interest.

~~CB.~~ Appeals.

1. Appeals may be brought by developers, as defined in Section 66.0617(1)(b), Wisconsin Statutes, or property owners as provided herein. The only questions that are appealable pursuant to Section 66.0617(10), Wisconsin Statutes, are the:

a. ~~The~~ fee amount;

b. fee collection; and

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~~bc. The~~ fee use.

2. The Common Council shall hear the appeal. A written notice of appeal and appeal fee, in the same amount specified in Section 2.08.080(E)(2) must be filed with the City Clerk. The appeal fee is nonrefundable and failure to submit the fee shall cause the appeal to be dismissed. Appeals must be filed within 30 days of the date of payment of the impact fee by the appellant or use by the City.

**PART III.** Amend §16.16.010. to read as follows:

**16.16.010 Public sites and open space.**

~~A. In the design of plats or certified survey maps, due consideration shall protection from development must be given to the reservation of wetlands as defined in Title 14; drainageways; environmental corridors; conservancy areas; and open spaces ; ~~and other public purposes from development~~. All wetlands must be determined by a certified wetland delineator, reviewed and approved by the city, and shown within a plat or certified survey map shall be placed in an outlet described in §16.12.020 or 16.12.040 Wetlands, if identified and designated for such purpose in the comprehensive plan, a neighborhood plan, the parks and open space plan, or official map, shall be included in the plat or certified survey map and reserved for such purposes through dedication as an outlet or easement at the rate set forth in subsection (B) of this section or pay the fee as set forth in Chapter 15.28.~~

~~B.—Dedication Rates.~~

~~1.—Repealed by Ord. 2787-22.\*~~

~~2.—Wetlands. The dedication rate is one acre for each eight proposed or potential dwelling units in residential subdivisions, and at the rate of one acre for each 185,000 square feet of nonresidential lot area, or fraction thereof, in nonresidential developments.~~

**PART IV.** All ordinances and parts of ordinances contravening the provisions of this ordinance are hereby repealed.

**PART V.** If any section or portion of this ordinance shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion

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thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect.

**PART VI.** The provisions of this ordinance shall be in full force and effect from and after its passage and publication.

Adopted this 6<sup>th</sup> day of June 2023.

Approved:

Mayor Steven V. Ponto

Attested:

City Clerk Michelle Luedtke

Publication Date: