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TOWN OF MENASHA
MUNICIPAL CODE

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CHAPTER 14

IMPACT FEES

[Recreated 3/23/2009]

14.01 AUTHORITY

- (1) Pursuant to the authority of Section 66.0617 of the Wisconsin Statutes, the local impact fees enabling legislation, the purpose of this ordinance is to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public facilities which are necessary to accommodate land development. This chapter is intended to assure that new development bears an appropriate share of the cost of capital expenditures necessary to provide public facilities within the Town of Menasha and its service areas, as they are required to serve the needs arising out of the land development.

14.02 DEFINITIONS. In this section:

- (1) "Capital costs" means the costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless such costs relate directly to the public improvement for which the impact fees were imposed actually exceed 10% of the capital costs.
- (2) "Development" shall mean any man made change to improved or unimproved real property, the use of any principal structure or land or any other activity that requires issuance of a building permit.
- (3) "Impact fee" means cash contributions, contributions of land or interest in land, or any other items of value that are imposed on a developer by the Town pursuant to Wis. Stats. 66.0617.
- (4) "Land development" means the construction or modification of improvements to real property that creates additional residential dwelling units within the Town or its service areas or, that results in nonresidential uses that create a need for new, expanded or improved public facilities within the Town or its service areas.

- (5) "Public facilities" for purposes of this ordinance, as defined in section 66.0617(1(f)), Wis. Stats., means fire protection facilities, emergency medical facilities and parks, playgrounds and land for athletic fields.

- (6) "Service area" means a geographic area delineated by the Town Board within which the Town provides public facilities and for the public of this ordinance includes the entire Town of Menasha.

- (7) "Town" means the Town of Menasha.

14.03 IMPACT FEES IMPOSED

- (1) Pursuant to this ordinance, impact fees are hereby imposed on new development to recover the costs for fire protection and emergency medical facilities and park facilities.
- (2) Funds collected from impact fees shall be used solely for the purpose of paying the proportionate costs of providing public facilities that may become necessary due to land development. These costs may include the costs of debt service on bonds or similar debt instruments when the debt has been incurred for the purpose of proceeding with designated public facilities projects prior to the collection of all anticipated impact fees for that project, to reimburse the town or utility for advances of other funds or reserves, and such other purposes consistent with Wisconsin Stats. 66.0617, which are recorded and approved by the Town Board.

14.04 FIRE IMPACT FEES

The basis for the imposition of the fire impact fees is the facilities needs assessment titled "Report on Fire Impact Fees and Public Needs Assessment" prepared by Virchow, Krause & Company, LLP for the Town on June 14, 2006, which is on file in the office of the Town Clerk of the Town of Menasha. These impact fees shall be collected until the capital costs associated with the projects specified in the "Report on Fire Impact Fees and Public Needs Assessment" have been incurred and satisfied ("satisfied" includes the full repayment of any debt of the Town related to the projects). The amount of the fee imposed shall be in accordance with the "Town of Menasha Fee Schedule".

14.05 PARK FACILITIES IMPACT FEE

The basis for the imposition of a park facilities impact fee is the Public Facilities Needs Assessment prepared by Municipal Economics and Planning, a division of Ruekert/Mielke for the Town in September of 2008 which is on file in the office of the Town Clerk of the Town of Menasha. These impact fees shall be collected until the capital costs associated with the projects specified in the Public Needs Assessment have been incurred and satisfied (“satisfied” includes the full repayment of any debt of the Town related to the projects). The amount of the fee imposed shall be in accordance with the “Town of Menasha Fee Schedule”.

14.06 IMPACT FEE REVENUE ADMINISTRATION

- (1) Revenues from impact fees shall be placed in segregated, interest bearing accounts and shall be accounted for separately from other town general and utility funds. Impact fee revenues and interest earned thereon may be expended only for capital costs for which the impact fees were imposed.
- (2) Impact Fees imposed and collected by the Town under this Chapter shall be used within the time limits defined by Section 66.0617(9) Wisconsin Statutes by the Town to pay the Capital Costs of the Public Facilities for which they were imposed, or in the alternative, refunded to the current owner of the real property with respect to which the Impact Fees were imposed along with any interest that has accumulated. Specifically, the time limits shall be as follows:
 - (a) With regard to impact fees collected before January 1, 2003, not later than December 31, 2012.
 - (b) With regard to impact fees collected after December 31, 2002 and before April 11, 2006, not later than the first day of the 120th month beginning after the date on which the fee was collected.
 - (c) With regard to impact fees collected after April 10, 2006 but within 7 years of the effective date of the ordinance enacting the impact fees, 10 years after the effective date of the ordinance enacting the impact fees.

- (d) With regard to impact fees collected after April 10, 2006 but more than 7 years after the effective date of the ordinance enacting the impact fees, 15 years after the date on which the fee was collected.
- (e) With regard to impact fees collected within 7 years after the effective date of the ordinance enacting impact fees, 10 years after the effective date of the ordinance enacting impact fees.
- (f) With regard to impact fees collected more than 7 years after the effective date of the ordinance enacting impact fees, 15 years after the date on which the fee was collected.

14.07 PAYMENT OF IMPACT FEES

- (a) All required impact fees shall be payable by the developer or the property owner to the municipality in full at the issuance of a building permit.
- (b) All building permits are deemed to be issued subject to the payment of the fee. Failure to pay impact fees in compliance with this ordinance shall be cause for the revocation of a building permit.
- (c) Representation of values at the time of the issuance of a building or occupancy permit which represents an underestimation of more than 10%, upon which an impact fee has been calculated, shall be cause for the Town to give notice to the developer or owner that the impact fees require recalculation. Said notice shall be given not later than November 1 of the first year of the full value assessment. The Town shall give notice of the recalculation and that the additional calculation represents a special charge related to the property. Failure to pay within 14 days of the notice shall be cause for the Town to place the charge and administrative costs on the tax bill as a special charge.

14.08 APPEALS

The payment of an impact fee imposed under this section may be contested as to the amount, collection or use of the impact fee to the Town Board, provided that the applicant files a written notice of appeal in the Town Clerk's office within thirty (30) days of payment of the impact fee. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the applicant's name, address, telephone number, address (if available) and legal description of the land development upon which the impact fee is imposed, and a statement of the nature of the reasons for the appeal. The Town Clerk shall schedule the appeal for consideration by the Town Board at a regular meeting as soon as reasonably practical under the circumstances and shall notify the applicant of the time, date, and place of such meeting in writing by regular mail, deposited in the mail no later than at least ten (10) days before the date of such meeting. Upon review of such appeal, the Town Board may adjust the amount, collection or use of the impact fee upon just and reasonable cause shown.

14.09 REVIEW

All fees collected and special accounts maintained under this section shall be subject to administration by the Town Treasurer. The Treasurer shall report annually to the Town Board with regard to all deposits, withdrawals and fund balances in these accounts. The purpose of the annual report is to provide the Town Board with information necessary to determine that all funds collected are spent within the time required for the purpose intended and that the amount of fees imposed continues to represent an equitable and reasonable apportionment of the cost of public improvements and requirements generated by land development. Upon such considerations and for such purposes, the Town Board may make reasonable adjustments to the amount of such fees and determine whether there exists any reasonable need for refund of fees previously collected. The impact fees imposed under this section shall be increased annually at a rate equal to the percentage change in the Engineering News Record Construction Cost Index for the previous 12 months, with the adjustment effective January 1 of each year. The Town Treasurer or designee shall calculate the adjusted fees and maintain a copy of the calculation and the adjusted impact fees in the office of the Town Clerk. The revenue and expenditure totals for each impact fee must also be included in the Town's annual budget, and a summary of the revenue and expenditure totals for each impact fee must also be made available in

the Town's annual budget summary required under Wisconsin State Statute §65.90 (3) (a).

14.10 SEVERABILITY

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.