

CHAPTER 14

IMPACT FEES

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14.01 FIRE IMPACT FEE ORDINANCE OF THE TOWN OF MENASHA

(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.

(2) **Definitions.** In this section:

- (a) "Capital costs" means the capital 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.
- (b) "Development" shall mean any man made change to improve or unimproved real property, the use of any principal structure or land or any other activity that requires issuance of a building permit.
- (c) "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.
- (d) "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.

- (e) "Public facilities" for purposes of this ordinance, as defined in section 66.0617(1(f)), Wis. Stats., means upgrades, expansions and additions to the Town's existing fire facilities. Public facilities also include facilities for fire and emergency medical services as well in this ordinance.
- (f) "Service area" means a geographic area delineated by the Town Board within which the Town provides public facilities and for the purpose of this ordinance includes the entire Town of Menasha.
- (g) "Town" means the Town of Menasha.

(3) Impact Fee Revenue Administration.

- (a) Revenues from impact fees shall be placed in one or more 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.
- (b) Impact fee revenues imposed and collected but not used within seven years after collection to pay the capital costs for which they were imposed shall be refunded on a prorated proportional basis, along with any interest accumulated, as determined by the Town Board, to the current record owner or owners of the property with respect to which the impact fees were imposed. Reasonable time periods for expenditure of impact fee revenues shall be as follows:

(4) Use of Impact Fees.

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.

(5) Payment of Impact Fees.

- (a) All required impact fees, unless expressly excepted 14 days in a section of this chapter, shall be payable by the developer or the property owner to the municipality in full within 14 days of the issuance of a building permit or within 14 days of the issuance of an occupancy permit by the subdivision municipality.
- (b) All building and occupancy 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 or occupancy 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.

(6) 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 and 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.

(7) Refunds of Fees Paid.

Any funds not expended or encumbered by the reasonable period of time as outlined in Section 17.09(4)(A)(B) shall be returned to such current landowner with interest at a rate calculated on the basis of the seven year average of the capital LGIP (local government investment tool).

(8) 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).

(9) Review.

The impact fees contained herein shall be reviewed by the Town Board periodically.

(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.