

Chapter 19

ESTABLISHING IMPACT FEES

HISTORY:

1-30-08 the Town Board of the Town of Oak Grove ~~repeals~~ ^{*repeals*} and recreates General Code of the Town of Oak Grove Chapter 19, with Ordinance ~~2008-2~~, Establishing Impact Fees This Ordinance is published in Chapter 19, Ordinance Establishing Impact Fees.

Adopted by the Town Board of the Town of Oak Grove 4 – 21 – 2003 by Ordinance No. 2003 – 02. It was published 4 – 22 – 2003 and is new Chapter 19, sections 19.01 through 19.15.

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Sec. 19.01. Purpose and Intent.

The Town of Oak Grove has found that its existing framework for assessing the cost of development is insufficient to recover the capital costs for public facilities installed because of development. Accordingly, pursuant to Wis. Stat. 66.0617, this Ordinance is enacted to establish the mechanism for imposing impact fees upon land development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public facilities that are necessary to accommodate such development. This Ordinance is intended to assure that new land development bears an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Town of Oak Grove as are required to serve the needs arising out of land development. As provided in Sec. 66.0617(2) (b), Wis. Stats., by adopting this Ordinance, the Town of Oak Grove, is not intending to limit its authority to finance public facilities by any other means authorized by law, including, without limitation, the means authorized by Sec. 236.13, subsections (2) and (2m), Wis. Stats. and any other statutes or ordinances. Accordingly the Public Facilities Needs Assessment identifies the maximum impact fee that may be imposed under Wis. Stat. ~66.0617. The Town Board may choose to impose impact fees up to that maximum.

Sec. 19.02. Public Facilities Needs Assessment.

In accordance with Sec. 66.0617 (4) Wis. Stats., the Town of Oak Grove has prepared a Public Facilities Needs Assessment for which it is anticipated that impact fees may be imposed. A copy of the Public Facilities Needs Assessment, Town of Oak Grove, Wisconsin dated November 2007 prepared by Cedar Corporation is on file and available for public inspection and copying at the office of the Town Clerk.

Sec. 19.03. Definitions.

The definitions set forth in Sec. 66.0617 (1) Wis. Stats., and any amendments thereto, are hereby incorporated and made a part of this ordinance as if fully set forth herein. In addition, in this chapter the following definition shall apply:

- (1) "Residential Equivalent Unit (REU)" means a unit of measure for impact fees equivalent to one residential dwelling unit. For residential uses the REU is the number of residential units created by the land development. For industrial and commercial uses, the REU is one REU per acre.

19.04 Establishment of Impact Fees.

- A. The Town Board hereby establishes impact fees to pay for the construction, expansion, or improvement of public facilities, the need for which is caused by new development. The public facilities for which impact fees are imposed under this chapter are: 1) Roads; 2) Fire Protection Facility; 3) Fire Protection Wells.
- B. Pursuant to Wis. Stat 66.1617 (2) the establishment of impact fees does not prohibit or limit the Town's authority to finance public facilities by any other means authorized by law, except that the amount of the impact fee imposed by the Town shall be reduced to compensate for any other costs of public facilities imposed by the

municipality solely on developers to provide or pay for capitol costs.

- C. The impact fees established in the fee schedule below shall be imposed on any person seeking to construct or create a land development within the Town, including land development on vacant or partially vacant land, and land development on lots created before and after the effective date of this chapter. Impact fees for residential development shall be imposed on a per residential unit basis.
- D. The following impact fees are established by the Town pursuant to Sec 66.0617, Wis. Stats. The impact fee shall be no more than the maximum impact fees set forth in the Public Facilities Needs Assessment for each public facility:
 - 1. Road improvement impact fees in the amount of \$2590.00 per REU.
 - 2. Fire Protection facilities impact fees in the amount of \$380.00 per REU.
 - 4 Fire protection well impact fees in the amount of \$220.00 per REU.

Sec.19.05. Standards for Fees.

Impact fees imposed under this section:

- A. Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
- B. May not exceed the proportionate share of the capital costs that are required to serve land development as compared to existing land uses of land within the Town of Oak Grove.
- C. Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved facilities.
- D. Shall be reduced to compensate for other capital costs imposed by the Town of Oak Grove with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications, or fees in lieu of land dedication, under Chapter 236, Wis. Stats., or any other items of value.
- E. Shall be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.
- F. May not include amounts necessary to address existing deficiencies in public facilities.

Sec. 19.06. Time Limit for Expenditures.

- A. The Town determines the following as maximum lengths of time appropriate for the planning, financing, acquisition and construction of the public facilities listed below:

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| (1) Roadway improvements: | 20 years |
| (2) Fire protection facilities: | 10 years |
| (3) Fire Protection Wells: | 20 years |

B. Notwithstanding the time periods specified in Section 19.06 A above, pursuant to Wis. Stat. 66.0617(9), impact fees held by the Town under this article and not used within seven years of collection, shall be refunded to the persons who are the owners of record, at the expiration of such time period, of the property upon which the impact fees were imposed. However pursuant to Wis. Stat 66.0617 (9) (b) the Town may extend the seven year period to ten years if the Town Board adopts a resolution stating that, due to extenuating circumstances or hardship, the Town needs an additional three years to use the impact fees that were collected. Impact fees shall be considered to be used within the meaning of this section when: a) the collected impact fees are spent to pay for designated public facility; b) when debt is incurred to pay for the designated public facility and such debt is committed to be repaid, in whole or in part, by the use of impact fees imposed and collected under this chapter; or c) when town non-impact fee funds are used to pay for the designated public facility and such town funds are committed to be repaid in whole or in part by the use of impact fees imposed and collected under this chapter; or d) impact fees are in some other way committed to pay for the construction of public facilities designated in the public facilities needs assessment.

Sec. 19.07. Payment of Impact Fees.

A. Unless expressly exempted in a section of this Ordinance, or as specified under B or C herein, all required impact fees shall be paid in full at the time of building permit issuance.

B. If provisions of this chapter are inconsistent with any terms addressing imposition or payment of impact fees in any developer's agreement executed before the adoption of this chapter, the terms of any such developer's agreement(s) shall control.

C. In the event that Wis. Stat. 66.0617, or any successor statute, requires impact fee payments to be made later than at the time of the building permit issuance, then any impact fee shall be payable no earlier than the earliest date allowed under state law. As of the effective date of this Ordinance, the earliest date of payment of impact fees is 14 days after issuance of building permits pursuant to Wis. Stat. 66.0617 (6) (g). The building permit shall be immediately void if the impact fee is not paid within 14 days of building permit issuance. Impact fee payments shall be the responsibility of the owner of record of the property

Sec. 19.08. Administration of Impact Fees.

Revenues collected by the Town as impact fees shall be placed by the Town Treasurer in segregated interest-bearing accounts, and shall be accounted for separately from other funds of the Town. Impact fee revenues and interest earned on impact fee revenues may be expended by the Town only for capital costs for which the impact fees were imposed. These costs may include the costs of debt service on bonds or similar 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 for advances of other funds or

reserves, and such other uses consistent with Wis. Stat. 66.0617, which are recorded and approved by the Town Board.

Sec. 19.09. Installment Payments.

The Town Board may, in its sole discretion, authorize by resolution the payment of impact fee in installment payments. If installment payments are authorized, interest shall be paid on the installment payments at the same rate then charged by the Town on installment payments for special assessments.

Sec. 19.10. Appeals.

A person upon whom an impact fee is imposed may appeal the impact fee as provided in this Section.

A. No appeal may be commenced pursuant to this section if any applicable impact fee or installment payment is delinquent. No impact fee payment obligation shall be suspended during the pendency of any appeal filed pursuant to this section.

B. Pursuant to Sec. 66.0617(10) Wis. Stats., the only issues upon which an impact fee appeal can be raised are the following:

- (1) The amount of the impact fee imposed by the Town and paid by the developer;
- (2) The method of collection of the impact fee;
- (3) The use for which impact the Town expends fee funds.

C. Appeals must be brought within 15 days of the earlier of:

- (1) The due date for payment of the applicable impact fee; or
- (2) The due date of the first installment payment.

D. The appellant shall pay a filing fee of \$200.00 at the time of filing of the appeal. The notice of appeal shall be filed with the Town Clerk.

E. Following the filing of the notice of appeal, the Town Clerk shall compile a record of the ordinance imposing the contested impact fee and a record of the management and expenditures of the impact fee. The Town Clerk shall transmit these documents to the Town Board. The Town Clerk shall also compile a report for each appeal in which the appellant is seeking a total or partial refund of the impact fee paid. This report shall specify the fiscal impact of a successful appeal on the Town of Oak Grove. The fiscal impact report shall estimate whether it will be necessary for the Town to adjust impact fees or amend existing ordinances if there is a successful appeal.

F. The Town 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 impact fee at issue. Following the close of the public hearing, the Town Board shall deliberate upon the matter and shall conduct any studies and inquiries it deems appropriate to decide the appeal.

G. If the Town 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 Town thereon; granting the appellant the opportunity to make the impact fee payment in installments; or such other remedies as it deems appropriate in a particular case.

Sec. 19.11. Reduction in Impact Fee.

Pursuant to Wis. Stat. 66.0617 (7), The Town Board may, at its sole discretion, agree to reduce the amount of the impact fee imposed on a specific land development that provides state or federal funded low or moderate income housing within the Town. Pursuant to Wis. Stat. 66.0617 (7) no amount of an impact fee for which a reduction is provided under this subsection may be shifted to any other development in the land development in which the low-cost housing is located or to any other land development in the political subdivision.

Sec. 19.12. Periodic Review of Impact Fees.

The Town Board may periodically review the impact fees established herein and modify them, if necessary, to account for changing facility needs, inflation, revised cost estimates, capital improvements, changes in other funding sources applicable to public facility projects and other relevant factors and in accordance with the standards for impact fees set forth in Wis. Stat. 66.0617.

Sec. 19.13. 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 portion(s) shall be deemed separate, distinct, and independent provisions. Any such holding shall not affect the validity of the remaining portions of this ordinance.

Sec. 19.14. Codification.

It is the intention of the Town Board and it is hereby provided that the provisions of this ordinance shall be made part of the Municipal Code, and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Sec. 19.15. Effective Date.

This ordinance shall take effect after public hearing thereon, approval by the Town Board, and publication as provided by law.