

Impact Fees

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Section 1 Purpose and Intent.

This Ordinance is enacted to establish the mechanism for the imposition of impact fees upon 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 development bears an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Town of Alden and its service areas as are required to serve the needs arising out of development, as well as to comply with Sec. 66.0617 Wis. Stats. As provided in Sec. 66.0617(2)(b), Wis. Stats, the Town of Alden, by adopting this Ordinance, 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.

Section 2 Definitions. In this Chapter:

(a) All words shall have the same meanings as set forth in Sec. 66.0617(1), Wis. Stats. As of the date of passage of this ordinance, those terms and definitions are as follows:

(1) “Capital costs” means the cost to construct, expand or improve public facilities, including the cost of land and legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs can be for said legal, engineering and design costs unless the Town can demonstrate that its actual legal, engineering and design costs relating directly to the public improvement for which the impact fees are being imposed exceed 10% of the capital costs for that project. "Capital costs" do not include other non-capital costs to construct, expand or improve public facilities, or vehicles, or the costs of such equipment as the Town may acquire, rent or use to construct, expand or improve public facilities for which an impact fee is being collected.

- (2) “Developer” means a person or business entity that constructs or creates a land development.
- (3) “Impact fees” means contributions of cash, land or interests in land, or any other items of value that are required of developers by the Town, as authorized by law.
- (4) “Land development”, or “development” means the construction, or modification, of improvements to real property in the Town that adds residential dwelling units in the Town; or that results in nonresidential uses that create the need for new, expanded or improved public facilities in the Town.
- (5) “Public facilities” means highways (as defined by Wis Stats. Sec. 340.01(22)), other transportation facilities, traffic control devices, facilities that collect and treat sewage, facilities to collect and treat storm and surface water, facilities to pump, store and distribute water, parks, playgrounds, land on which athletic fields will be located, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. “Public facilities” does not include facilities owned by school districts.
- (6) “Residential Dwelling Unit” means a detached building designed for or occupied exclusively by one family, i.e., persons who live together in one dwelling unit as a single housekeeping entity.
- (7) “Residential Equivalent Unit (REU)” is the unit of measure for calculating impact fees. One REU is equivalent to one single-family residential dwelling unit. Impact fees are charged on a “per REU” basis.
- (8) “Service area” means a geographic area delineated by the Town within which there are public facilities. The service area of the Town is equivalent to the full geographic area of the Town.
- (9) “Service standard” means a certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure.. The same service standard is in place through the entire Town.
- (10) “Town” means the Town of Alden.

Section 3 Establishment of Impact Fees.

The following impact fees are established by the Town pursuant to the authority granted by Wis. Stats. Sec. 66.0617:

- (a) Transportation Impact Fees;
- (b) Parks and Recreation Impact Fees; and .
- (c) Public Facilities Impact Fees .

The impact fees created in this ordinance shall apply to all development in the Town, whether the property is owned privately or by any political corporation, governmental subdivision or agency thereof, or any non-profit organization, including any religious or other eleemosynary organization. Impact fees are created and intended to permit the Town to recover from developers a fair share of the capital costs necessary to accommodate land development and maintain current levels of service to those developing areas of the Town

Section 4 Documentation Required.

Certain Town documents contain and support needs assessments for the impact fees established in this ordinance. In compliance with the requirements of state law, the following documents shall be kept on file and available for public inspection in the office of the Town Clerk:

- (a) Impact Fee Needs Assessment, current version prepared by MSA Professional Services, Inc.;
- (b) Town of Alden Comprehensive Master Plan, prepared by Citizens of Alden; and
- (c) Town of Alden Capital Improvements Plan 2006-2010.

These documents shall be revised and/or updated as growth and other circumstances in the Town make updating appropriate.

Section 5 Segregated Accounts Required.

Revenues collected by the Town, as impact fees shall be placed by the Town Clerk-Treasurer in segregated interest-bearing accounts and shall be accounted for separately from other funds of the Town. Funds collected from impact fees shall be used solely for the purpose of paying the proportionate costs of providing public facilities that may be come necessary due to development. These costs may include 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, reimbursement of the Town for advances of other funds or reserves where the advance is made for the purpose of proceeding with designated public facility projects prior to the collection of all anticipated impact fees for that project, and for such other purposes as are consistent with Wis. Stats. §66.0617 and are first approved by the Town Board.

Section 6 Time Within Which to Use Impact Fees.

The following are appropriate time periods for the planning, acquisition and construction of the public facilities listed below with funds collected as impact fees and interest thereon:

- (a) Transportation Facilities: Seven years
- (b) Parks and Recreational Facilities: Seven years
- (c) Public Facilities: Seven years

Impact fees collected by the Town and not used within the time period specified herein, shall be refunded to the record owners of the property on which the impact fees were imposed at the expiration of such time period. Impact fees shall be considered to be “used” for purposes of this requirement when: i) collected impact fees have been spent to pay for the designated public facility; ii) debt has been 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 iii) impact fees have been in some other way committed to pay for the construction of the public facilities for which the impact fee has been collected.

Pursuant to a resolution adopted by the Town Board, the time period for using impact fees may be extended by three years when, due to extenuating circumstances or hardship, the Town needs additional time to use the impact fees. The resolution shall identify the extenuating circumstances or hardship that has led to the need for the enactment of such a resolution. .

Section 7 Payment of Impact Fees.

(a) All required impact fees shall be paid in full within 14 days of issuance of a building permit by the Town. The building permit shall automatically become void if the impact fee is not paid within 14 days of issuance of the building permit. Payments of impact fees are the responsibility of the owner of the property at the time of building permit issuance.

(b) Prior to the developer’s entry into a binding purchase agreement concerning any land development affected by this ordinance, developers shall notify prospective purchasers of the fact and amount of the current impact fee requirements of this ordinance, that the impact fees are the obligation of the owner of the property and when the said fees are payable.

Section 8 Appeals.

(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 pending any appeal filed pursuant to this section.

(b) Pursuant to Sec. 66.0617(10) of the Wisconsin Statutes, the only issues upon which an impact fee appeal can be raised are:

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

(c) Appeals must be brought within 15 days of the due date of the payment of the applicable impact fee

(d) The appellant shall file a notice of appeal with the Town Clerk and pay a filing fee of \$200.00 at the time of filing of the appeal.

(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 Alden. 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, following publication of a class 1 public notice, and 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.

Section 9 Transportation Impact Fee.

(a) The Transportation Impact Fee is hereby imposed on all land development in the Town. Impact fees shall be imposed on a per Residential Equivalent Unit basis as set forth in the Town's Public Facilities Needs Assessment. The Transportation Impact Fee shall also be imposed on any modification to existing residential development that results in the creation of additional residential dwelling units.

(b) The Transportation Impact Fee shall be calculated in the manner set forth in the current Town Impact Fee Needs Assessment..

(c) The public road impact fee shall be \$2,020.00 for each REU.

(d) The Transportation Impact Fee shall be imposed on anyone seeking to construct or create a land development in 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 ordinance.

Section 10 Parks and Recreation Impact Fee.

(a) The Parks and Recreation Impact Fee is hereby imposed on all future land development in the Town. Impact fees shall be imposed on a per Residential Equivalent Unit basis as set forth in the Town's Public Facilities Needs Assessment. The Parks and Recreation Impact Fee shall also be imposed on any modifications to existing residential development that results in the creation of additional residential dwelling units.

(b) The Parks and Recreation Impact Fee shall be calculated in the manner set forth in the current Town Impact Fee Needs Assessment.

(c) The Parks and Recreation Impact Fee shall be \$320.00 for each REU.

(d) The Parks and Recreation Impact Fee shall be imposed on anyone seeking to construct or create a land development in 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 ordinance.

Section 11 Public Facilities Impact Fee.

(a) The Public Facilities Impact Fee is hereby imposed on all future land development in the Town. The Public Facilities Impact Fee shall also be imposed on any modifications to existing residential development that result in the creation of additional residential dwelling units. Impact fees shall be imposed on a per Residential Equivalent Unit basis as set forth in the Town's Public Facilities Needs Assessment.

(b) The Public Facilities Impact Fee shall be calculated in the manner set forth in the current Town Impact Fee Needs Assessment.

(c) The Public Facilities Impact Fee shall be \$400.00 per REU.

(d) The Public Facilities Impact Fee shall be imposed on anyone seeking to construct or create a land development in 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 ordinance

Section 12 Reduction in Impact Fee for Low Cost Housing.

The Town Board may, in its sole discretion; act to lessen the size of the impact fees imposed on land development that will provides low-cost housing. Impact fees so reduced shall not be shifted to or collected from any other development in the Town.

Section 13 Review and Standards

The Town Board shall periodically review its Public Facilities Needs Assessment and amount of the impact fees established herein and modify them as 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.

All Impact Fees imposed herein:

- (a) Shall bear a rational relationship to the need for new, expanded or improved public facilities required to serve land development.
- (b) Shall not exceed the proportionate share of the capital costs required to serve land development, as compared to existing uses of land within the Town.
- (c) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
- (d) Shall be reduced to compensate for other capital costs imposed by the Town 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 dedications under Wis. Stat. Ch. 236 or any other items of value.

(e) Shall be reduced to compensate for monies received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.

(f) Shall not include amounts necessary to address existing deficiencies in public facilities.

Section 14 Severability.

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

Section 15 Effective Date

This ordinance shall take effect upon adoption by the Town Board and publication, as provided by law.

By Action of the Alden Town Board on: January 11, 2007.

Bradley T. Johnson, Town Chairman

Judy Demulling, Town Clerk

Voted For: 4

Published in the Osceola Sun

Voted Against: 0

On: January 24, 2007

Public Hearing Date: January 11, 2007