

Deerfield Village Ordinances

Chapter 34 - IMPACT FEES

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34.1 – Short Title.

This Chapter shall be known and may be cited as the "Impact Fee Ordinance."

34.2 – Authority and Purpose.

Pursuant to the authority set forth in Wis. Stat. § 66.0617, the local impact fees enabling legislation, the purpose of this Chapter is to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs associated with constructing public facilities, the demand for which is generated by new development. This Chapter is intended to assure that new development bears an appropriate share of the cost of capital expenditures necessary to provide appropriate public facilities in the Village.

34.3 – Definitions.

The definitions set forth in Wis. Stat. § 66.0617(1), and any amendments thereto, are used in this ordinance and are incorporated by reference. The following are intended to be supplemental to those statutory definitions.

- (a) **Village.** The Village of Deerfield, Dane County, Wisconsin.
- (b) **Village Board.** The Village Board of the Village of Deerfield.
- (c) **Capital Costs.** 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 ten percent (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 and actually exceed ten percent (10%) of the capital costs.
- (d) **Impact Fee.** A fee to be collected prior to the issuance of a building permit.
- (e) **Land Development.** The construction or modification of improvements to real property that creates additional residential dwelling units within the Village or that results in nonresidential uses that create a need for new, expanded or improved public facilities within the Village.

- (f) **Developer.** A person that constructs or creates a land development.
- (g) **Public Facilities.** Public facilities means all of those facilities defined in Wis. Stat. § 66.0617(1)(f). Under this ordinance, the Village will identify the public facilities for which an impact fee is being imposed in a Section titled "Imposition of XXXXX Impact Fee."
- (h) **Service Area.** Under Wis. Stat. § 66.0617(1)(g), a service area means a geographic area delineated by a municipality within which there are public facilities. Under this ordinance, the Village will identify the service area for a particular impact fee in the Section titled "Imposition of XXXXX Impact Fee." The Village may delineate different service areas for different types of impact fees. The Village may also delineate different service areas based on particular or clearly identifiable public facilities needs.

34.4 – Imposition of Park Impact Fee.

- (a) **Park Impact Fee on Residential Development.** A Park Impact Fee is hereby imposed on all residential development that occurs in the Village. No Park Impact Fee shall be imposed on nonresidential development in the Village.
- (b) **Basis for Determining Park Impact Fee:** The basis for the imposition of these impact fees is the report titled "Public Facilities Needs Assessment and Parks Impact Fee Study," prepared by Ruckert/Mielke and dated January, 2013, ("Park Fee Needs Assessment"), which is on file in the office of the Village Clerk of the Village of Deerfield.
- (c) **Use of Park Fee.** As set forth in more detail in the Park Fee Needs Assessment, the Park Impact Fee will fund projects including, but not limited to:
 - 1. Land acquisition for a community park estimated to be +/- 30 acres;
 - 2. Park development including sports and recreational facilities; playground equipment; picnic tables, shelters, concession stand, gazebo and rest room facilities; shade trees; dog park; parking; and, performance area; and,
 - 3. Recreational and nature trails.Use of the Park Impact Fee for these public facilities shall be subject to the 10-year time limit set forth in Wis. Stat. § 66.0617(9)(a) and the 3-year extension set forth in Wis. Stat. § 66.0617(9)(b). (*See also* Section 34.8 of this ordinance.)
- (d) **Paid Prior to Issuance of Building Permit.** No building permit shall be issued for any residential construction until the applicable Park Impact Fee is paid in full. As used in this Section 34.4, the TERM "building permit" shall not include permits required for remodeling, rehabilitation or other improvements to an existing structure, or rebuilding a damaged or destroyed structure, provided that no increase in gross floor area or number of dwelling units results therefrom. The term "building permit" does include any permit required for new residential construction and additions.

(e) **Calculation of Park Impact Fee.** The Park Impact Fee imposed shall be based on the number of residential units, as set forth in the following fee schedule:

1. For single-family residential units and multi-family residential units with three bedrooms or more.

| Year | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|------|------------|------------|------------|------------|------------|------------|
| Fee | \$1,814.00 | \$1,869.00 | \$1,925.00 | \$1,983.00 | \$2,042.00 | \$2,103.00 |

2. For multi-family residential units with two bedrooms.

| Year | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|------|------------|------------|------------|------------|------------|------------|
| Fee | \$1,361.00 | \$1,402.00 | \$1,444.00 | \$1,487.00 | \$1,532.00 | \$1,578.00 |

3. For multi-family residential units with less than two bedrooms.

| Year | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|------|----------|----------|----------|----------|----------|----------|
| Fee | \$756.00 | \$779.00 | \$802.00 | \$826.00 | \$851.00 | \$876.00 |

4. The Park Impact Fee shall be imposed on mixed-use development based on the number of residential units, and using the fees set forth above for multi-family residential units.

(f) The Park Impact Fee established for the year 2018 shall be adjusted in subsequent years in accordance with the changes in the consumer price index prepared by the United States Department of Labor, Bureau of Labor Statistics, All Urban Consumer –Milwaukee CPI, or its successor.

(g) The Park Impact Fee shall be collected and expended until the capital costs associated with the projects specified in the Park Fee Needs Assessment have been incurred and satisfied.

34.5 – [Reserved]

34.6 – [Reserved]

34.7 – [Reserved]

34.8 - Impact Fee Revenue Administration.

(a) **More Restrictive Requirements Apply.** Revenues from each impact fee that is imposed and collected shall be administered by the more restrictive of the requirements set forth in this ordinance or those set forth in Wis. Stat. § 66.0617, as may be amended.

(b) **Segregated Accounts.** Revenues shall be placed in one or more separate, segregated, interest-bearing accounts and shall be accounted for separately from other Village general and utility funds. Impact fee revenues and interest earned thereon shall be expended only for the particular capital costs for which the impact fees were imposed, unless the fee is refunded as required by law.

- (c) **Use of Impact Fees Collected.** 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 Village for advances of other funds or reserves, and such other purposes as are consistent with Wis. Stat. § 66.0617. Approvals of uses of impact fees shall be by resolution of the Village Board.
- (d) **Refunds of Fees Paid.**¹ Impact fee revenues are subject to refund as set forth in the Wis. Stat. § 66.0617, which may be amended from time to time. As of the date of adoption of this ordinance, impact fee revenues that are collected within seven (7) years of the effective date of the section of this ordinance that imposes the fee, but neither expended nor encumbered within ten (10) years after collection to pay the capital costs for which they were imposed, along with any interest that has accumulated, shall be refunded on a prorated proportional basis, as determined by the Village Board, to the current record owner or owners of the property with respect to which the impact fees were imposed, subject to a 3-year extension for extenuating circumstances or any increases in said time period provided by subsequent amendments to Wis. Stat. § 66.0617. The 10-year time limit for using the impact fees may be extended for 3 years if the Village Board adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the 10-year limit, it needs an additional 3 years to use the impact fees that were collected.

34.9 - Appeals.

- (a) **Notice of Appeal.** The payment of an impact fee imposed under this ordinance may be contested as to the amount, collection or use of the impact fee to the Village Board, provided that the petitioner files a written notice of appeal in the Village 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 petitioner'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 relief sought and the legal and/or factual basis for the relief requested. The petitioner shall include all supporting documentation upon which the petitioner relies in making the appeal. The Village Clerk shall schedule the appeal for consideration by the Village Board at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the applicant of the time, date and place of such meeting in person, via email provided that petitioner acknowledges receipt of same, or in writing by mail, deposited in the U.S. mail or other commercial delivery service no later than at least ten (10) days before the date of such meeting. Upon review of such appeal, and a finding that just and reasonable cause has been shown, as determined by the Village Board, the Village Board may adjust the amount, collection or use of the impact fee.

¹ For specific information on refunds, see Wis. Stat. § 66.0617(9), as in effect in September 2013.

- (b) **Standing to Appeal.** Only a developer or property owner upon whom an impact fee has been imposed may be a petitioner and contest the amount, collection or use of the impact fee.
- (c) **No Stay.** The filing of an appeal shall not stay the collection of the impact fee due unless a bond or other sufficient surety has been filed.
- (d) **Certiorari.** If the petitioner wishes to appeal the decision of the Village Board, the petitioner shall commence an action for Certiorari Review in the Dane County Circuit Court. Any such action shall be commenced within 30 days after the date of the Village Board's decision or the petitioner shall be deemed to have waived petitioner's right for further appeal.

34.10 - Impact fee as additional and supplemental requirement.

This ordinance shall not affect any zoning and subdivision regulations or other regulations of the Village, which shall remain in full force and effect. Except as required by Wis. Stat. § 66.0617(6)(d),² the impact fees imposed by this ordinance are additional and supplemental to, and not in substitution of, any other requirements imposed by the Village on the development of land or the issuance of building permits.

34.11 - Amendments.

This ordinance may be amended. Any and all amendments shall be made in accordance with Wis. Stat. § 66.0617.

34.12 – 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.

² For convenience and reference, Wis. Stat. § 66.0617(6)(d), as in effect in September 2013, states as follows:

(6) STANDARDS FOR IMPACT FEES. Impact fees imposed by an ordinance enacted under this section:

(d) Shall be reduced to compensate for other capital costs imposed by the municipality 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 ch. 236 or any other items of value.