

53.11 IMPACT FEES

(a) **DEFINITIONS.** The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) **"Building Permit"** shall mean any permit required for new construction and additions of residential dwelling units or of any commercial business establishments, parking lots or other nonresidential uses. The term "building permit," as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged or destroyed structure, provided no increase in floor area or number of dwelling units results therefrom
- (2) **"Building"** see "Structure".
- (3) **"Comprehensive Plan"** shall mean the adopted Village of Pulaski Comprehensive Plan or Master Plan, including any subsequent changes or amendments thereto
- (4) **"Cost"** shall mean the capital cost 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 the City can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. "Costs" do not include other non-capital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.
- (5) **"Developer"** shall mean a person or other entity that constructs or creates development within the Village.
- (6) **"Development"** shall mean the construction or modification of improvements to improved or unimproved real property that creates additional residential dwelling units or that results in nonresidential uses that create a need for new, expanded or improved public facilities within the Village.
- (7) **"Development Impact Fee Zones"** shall mean geographically defined areas of the Village that have been designated by the Village Board as areas in which development has created or may create the need for capital improvements be funded in whole or in part by impact fees. The areas may be referenced in the Comprehensive Plan and shall be shown on a Development Impact Fee Zones Map.
- (8) **"Floor Area"** shall mean the total floor area of buildings allowed

- on a given lot, based upon approved land division or subdivision
- (9) **"Impact Fee"** shall mean a fee established under the provisions of this Section on the basis and for the purposes set forth herein to be collected at the time a building permit is issued and calculated based upon the costs of facilities in proportion to development creating the need for such facilities.
 - (10) **"Mixed Use Development"** shall mean use of land involving both residential and nonresidential development.
 - (11) **"Needs Assessment"** shall mean the assessment of needs required by Sec. 66.0617(4), Wis. Stats.
 - (12) **"Net Developed Area"** shall mean the total area of a parcel, Subdivision Plat or certified survey map that remains privately owned after public lands, such as street rights-of-way, parks, greenways and detention basins, have been dedicated at the time of Development or Redevelopment
 - (13) **"Non-residential Development"** shall mean any use of land for primarily industrial or commercial purposes, or which does not fall within the definition of residential development.
 - (14) **"Parks Committee"** shall mean the Village of Pulaski Parks Committee.
 - (15) **"Plat"** See Subdivision Plat
 - (16) **"Public Facilities"** shall mean any or all of the following capital improvements:
 - (a) Parks, playgrounds and land for athletic fields;
 - (b) Highways and other transportation facilities and traffic control devices, including such ancillary facilities as sidewalks, street lighting, curbs, gutters, intersection improvements, traffic signalization, signage, street trees and landscaping;
 - (c) Sanitary sewers and sewage collection facilities;
 - (d) Water pumping, storage, distribution and supply facilities;
 - (e) Storm sewers, drains, and drainage retention facilities
 - (f) Police and law enforcement facilities;
 - (g) Fire protection and emergency medical facilities;
 - (h) Libraries;
 - (i) Other necessary governmental services which require public facilities in the Village as a whole or in designated development impact fee zones. The costs of such public facilities shall include acquisition of land, construction, improvements, capital equipment, and installing of same and all other work auxiliary thereto, including administrative, engineering, architectural, and legal work performed in connection with a public facilities project.
 - (17) **"Public Facilities Project"** shall mean a project involving the

- construction or remodeling of a Public Facility.
- (18) **"Residential Development"** shall mean use of land for the creation of new residential dwelling units for the primary purpose of housing accommodations.
 - (19) **"Site"** shall mean a parcel, lot, or contiguous group of lots in a single ownership or under single control, considered a unit for purposes of development.
 - (20) **"Structure"** shall mean any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
 - (21) **"Subdivision"** shall have the meaning given in Sec. 236.02(12), Wis. Stats.
 - (22) **"Subdivision Plat"** shall mean a preliminary or final plat of a subdivision showing the salient features of a proposed subdivision and which is submitted to an approving authority for purposes of preliminary or final plat consideration. As sometimes used herein, it shall also include an approved land division or certified survey map.

(b) **PURPOSE AND AUTHORITY**

- (1) Purpose. The purpose of Section. 53.11 is to create a mechanism for the provision of capital costs for the construction, expansion and improvement of public facilities necessary to serve land development, including the cost of land, legal, engineering and design costs. Accordingly, there are hereby imposed the impact fees in this division in compliance with the requirements of Wis. Stats. § 66.0617. Section 53.11 is intended to facilitate adequate provision for specified public facilities and to coordinate land dedication and financing of those public facilities imposed on developers as outlined in other chapters of this Code and the adopted comprehensive plan and official map of the village.
- (2) Authority. The authority for this Section is provided by Sec. 66.0617, Wis. Stats. The provisions of this Section shall not be construed to limit the power of the Village to adopt any ordinance pursuant to any other source of local authority or to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in lieu of or in conjunction with this Section.

- (c) **APPLICABILITY OF IMPACT FEE.** This Section shall be uniformly applicable to development which occurs, after the effective date of this Ordinance or any amendment thereto, within the Village. Pursuant to

Section 66.0617(5), different impact fees may be imposed on different types of land development and may impose impact fees on development in a particular zone or subarea that differ from impact fees imposed on similar development in other zones or subareas within the Village.

(d) **IMPACT FEES.**

- (1) Policy. In response to new and future development and population generating demands for new Village parks and park infrastructure, there is hereby established a Village-wide Park Impact Fee as the mechanism to equitably require all developments to pay for the parks related costs that are necessary to accommodate that development.
- (2) Needs Assessment. For the purposes of the Impact Fees imposed under this subsection, a Needs Assessment has been prepared on a village-wide basis to establish the rationale and basis for the impact fees created under this Subsection also taking into consideration the effect of such fees on low income housing. The Sec. 66.0617, Stats., Needs Assessment is available for inspection at the Office of the Village Clerk.
- (3) Establishment. Any developer creating or constructing additional residential dwelling units within the Village shall pay a fee to the Village based on an Impact Fee Schedule adopted from time to time by resolution of the Village Board, which fee shall provide for the capital costs necessary to accommodate the development with regard to public facilities.
- (4) Exemptions. The Impact Fee Schedule established hereunder may provide for an exemption from, or a reduction in the amount of, impact fees on land development that provides low-cost housing, except that no amount of an impact fee for which an exemption or 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 municipality.
- (5) Payment of Impact Fees. All impact fees hereunder shall be paid to the Village, in full, before the issuance of any building permit for the development.
- (6) Publication. The Impact Fee Schedule established under subsection (3) shall be published and made available to the public.

(e) **IMPACT FEE ADMINISTRATION.**

- (1) Segregated Account. All impact fees collected by the Village

shall be placed and held in a separate, segregated interest-bearing account and shall be accounted for separately from other funds of the Village.

- (2) Project List. The Village Board shall establish and annually review and update a list of projects for which the impact fees collected hereunder are eligible taking into consideration the criteria and project requirements established under Sec. 66.0617, Stats.
- (3) Expenditure of Fees. The impact fees collected under these provisions shall be expended by the Village for park related improvements within eight (8) years after the date were collected hereunder.
- (4) Fee Refund. Except as provided in this subsection, impact fees that are not used within eight (8) years after they are collected to pay the capital costs for which they were imposed shall be refunded to the payer of fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated thereon. Under extenuating circumstances, the Village may extend the impact fee expenditure period to 10 years upon adoption of a resolution specifying the extenuating circumstance that led to the need for expanding the impact fee use period.
- (5) Annual Report. The village treasurer shall provide an annual report to the Village Board detailing all deposits, withdrawals and fund balances in the Impact Fee Segregated Account. The purpose of the annual report is to provide the Village Board with information necessary to determine that all funds collected are spent within a reasonable amount of time for the purposes intended and that the amount of the fees being imposed continues to represent an equitable and reasonable apportionment of the cost of public facilities for land development.

(f) **REFUNDS.**

- (1) Claim for Refund. The current owner of a property on which an impact fee has been paid may apply for a refund of such fee if
 - (a) The Village has failed to provide a public facility serving such property within eight (8) years from the date of payment of the impact fee, as prescribed in Wis. Stat. § 66.0617(9), or
 - (b) The building permit for which the impact fee has been paid has lapsed for non-commencement of construction; or
 - (c) The project for which a building permit has been issued has been altered in a manner which has resulted in a decrease

in the amount of the impact fee due; or

- (2) Notice of Claim for Refund. A written Notice of Claim for Refund must be filed with the Village Clerk within one (1) year of the event giving rise to the claim. Failure to do so as provided herein shall be considered a waiver of the right to claim a refund under this chapter.
- (3) Village Board Review. Within ten (10) business days of the filing date of a claim for refund, the Village Treasure shall forward a copy of the claim for refund to the Village Board for review. The Village Board shall have ninety (90) days to review the claim and determine if a refund is warranted. The Village Board shall adopt a written decision denying, approving, or approving in part the claim for refund. In the event the Village Board fails to act on the claim for refund within ninety (90) days, the claim for refund shall be deemed to have been approved.
- (4) Payment of Approved Refund. Any refund approved hereunder shall be paid to the claimant within sixty (60) days after such claim has been approved or deemed to have been approved.
- (5) Review by Circuit Court. If the claimant wishes to appeal the decision of the Village Board, the claimant must commence an action by certiorari in the Brown County Circuit Court seeking review of the Village Board's decision within thirty (30) days after the date on which the Village Board adopted the decision with respect to the claim for refund.

(g) **APPEALS.**

- (1) Notice of Appeal. Any developer upon whom an impact fee has been imposed may contest the amount, collection or use of the impact fee by filing a Notice of Appeal to the Office of the Village Clerk. The Notice of Appeal shall be filed with the Executive Secretary of the Board of Public Works within thirty (30) days of the date of the determination therein appealed. The Notice of Appeal shall state in detail the relief sought by the developer and any legal or factual basis for the relief requested; and shall include all supporting documentation upon which the developer relies in making the appeal.
- (2) Payment of Assessed Fee. As a condition of the appeal, the developer shall deposit with the Village the assessed impact fee being appealed.
- (3) Issuance of Building Permits Pending Appeal. If the Notice of Appeal is accompanied by the payment of the impact fee being appealed, and all other requirements have been satisfied, the building permit may be issued or the final plat may be approved.

The filing of an appeal shall not stay the collection of the impact fee due.

- (4) Appeal to Be Heard by Board of Appeals. Within Seven (7) business days of the date of filing of the Notice of Appeal and the payment of the Impact Fee being appealed, the Village Clerk shall forward a copy of the Notice of Appeal to the members of the Board of Appeals. A hearing on the Notice of Appeal shall be scheduled within thirty (30) business days of receipt of the Notice of Appeal by the Board of Appeals.
- (5) Hearing Procedure. The developer shall present the basis and reason for its appeal. The Village shall thereafter present its response. Upon the conclusion of testimony and the presentation of evidence, the Board of Appeals shall deliberate and present its findings and decision.
- (6) Review by Circuit Court. If the developer wishes to appeal the decision of the Board of Appeals, the developer must commence an action by certiorari in the Brown County Circuit Court seeking review of the Board's decision within thirty (30) days after the date on which the Board adopted the decision.