

CHAPTER 16

IMPACT FEES

- 16.01 Intent
- 16.015 Impact Fee Reduction
- 16.02 Definitions
- 16.03 Establishment of Impact Fees
- 16.04 Documentation
- 16.05 Revenues
- 16.06 Time Limit for Expenditures
- 16.07 Payment of Impact Fees
- 16.08 Installment Payments
- 16.09 Appeals
- 16.10 Public Water Impact Fees
- 16.11 Public Police Impact Fees
- 16.12 Public Library Impact Fees
- 16.13 Public Park Impact Fees
- 16.14 Severability

Revised 12/2019

16.01 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 which 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 Village of Ellsworth 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 Village of Ellsworth, 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 because of enumeration herein, the means authorized by Sec. 236.13, subsections (2) and (2m), Wis. Stats., the Ellsworth Ordinances, and any other statutes or ordinances.

16.015 Impact Fee Reduction.

- (1) Impact Fees established under Section 16.03, pursuant to Wis. Stat. Section 66.0617, and required to be paid under Section 16.07 as a condition of the issuance of a building permit, are waived for the period commencing December 31, 2019, and ending midnight, December 31, 2020, as follows:
 - a. All new construction residential and commercial Impact Fees in non-TID districts where the total tax assessed value of the property is projected to equal or exceed \$150,000 upon completion shall be reduced 50% from the rate(s) in effect on June 1, 2015.
 - b. All new construction Impact Fees in TID districts where the total tax assessed value of the property is projected to equal or exceed \$150,000 upon completion shall be reduced 65% from the rate(s) in effect on June 1, 2015. [Ord. 644 6/2015, 648 01/2016, 653 06/2016, 658 12/2016, 665 12/2017 671 12/2018, 674 03/2019]
- (2) The reduction of Impact Fees in subsec. (1) is conditioned upon full payment of any necessary building permit(s), timely payment of the reduced

Impact Fee in accordance with Section 16.07, and completion of the project of construction for which the building permit(s) was issued within one year of permit issuance. In the event any of the aforementioned conditions are not complied with then the full, unreduced Impact Fee shall be due and payable before any certificate of occupancy is issued for the premises. Where any additional Impact Fee is due as a result of non-compliance the Village may take such enforcement action to collect such fees as appropriate in its discretion, including adding the fees as a special assessment against the premises on the tax roll.

- (3) This Ordinance shall take effect on December 3, 2019, and shall expire, unless extended by Ordinance, at midnight on December 31, 2020. [Ord 644 6/2015, 645 8/2015, 658 12/2016, 665 12/2017 671 12/2018, Ord 681 12/2019]

16.02 Definitions. In this Chapter:

(a) All words shall have the same meanings as set forth in Sec. 66.0617, subsection (1), Wis. Stats.

(b) The word "development" shall have the same meaning as the phrase "land development".

(c) "Residential Equivalent Unit (REU)" means a unit of measure for impact fees equivalent to one residential dwelling unit. For purposes of calculating the public water impact fee, one REU is considered equal to the basic residential meter size of 5/8 in. or 3/4 in. For the library impact fee, park impact fee and the police impact fee one REU is equal to each separate dwelling unit. In all cases, the Village Clerk shall make the decision as to the application these standards.

16.03 Establishment of Impact Fees. The following fees are impact fees established by the Village pursuant to Sec. 66.0617, Wis. Stats.:

(a) Public water impact fees pursuant to Section 16.10.

(b) Public police impact fees pursuant to Section 16.11.

(c) Public library impact fees pursuant to Section 16.12.

(d) Park impact fees pursuant to Section 16.13.

16.04 Documentation. The following Village documents contain the needs assessments for the impact fees identified under Section 16.03 above, demonstrate Village compliance with the requirements of Sec. 66.0617(3), Wis. Stats., and shall be kept on file and available for public inspection in the Office of the Village Clerk:

(a) Impact Fee Needs Assessment prepared by Short Elliot Hendrickson Inc., dated November, 2003.

(b) Impact Fee Needs Assessment for Parks prepared by Short Elliot Hendrickson Inc., dated February, 2007.

16.05 Revenues. Revenues collected by the Village as impact fees shall be placed by the Village Treasurer in a separate, segregated interest-bearing accounts, and shall be accounted for separately from other funds of the Village. Impact fee revenues and interest earned on impact fee revenues may be expended by the Village only for the capital costs for which the impact fees were imposed.

16.06 Refund of Impact Fees

(a) An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated.

(b) An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner of the

property with respect to which the impact fee was imposed, along with any interest that has accumulated.

(c) With regard to an impact fee that is collected after April 10, 2006, and within 7 years of the effective date of the ordinance adopting this section, such impact fees shall be used within 10 years of the effective date of the ordinance to pay the capital costs for which they were imposed, or shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated.

(d) With regard to an impact fee that is collected after April 10, 2006, and that is collected more than 7 years after the effective date of the ordinance adopting this section, such impact fees shall be used within a reasonable period of time to pay the capital costs for which they were imposed, or they shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated.

(e) With respect to impact fees collected during the time period set forth under (c) and (d) above, the time period for use of the impact fees may be extended for three (3) years by the Village Board if the Board has adopted a resolution which includes detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt the resolution, and specifying the resolution is adopted and the time limit for using impact fees has extended for 3 years due to such extenuating circumstances or hardship in meeting the 10 year limit.
[Ord. 611 04/2011]

16.07 Payment of Impact Fees. Impact fee payments shall be assumed to be the responsibility of the owner of record at the time of issuance of a building permit. All required impact fees shall be paid one hundred percent (100%) to the Ellsworth Building Inspector's office within fourteen days of the issuance of the building permit. Rates that are in effect at the time of building permit issuance shall be applied. Impact fee payments shall be the responsibility of the owner of record at the time of building permit issuance. Failure to pay impact fees within 14 days of issuance of the building permit, the building permit shall be void. If the provisions of this section are inconsistent with any terms addressing imposition or payment of impact fees in any developer's agreement executed prior to passage of this ordinance, the terms of any such developer's agreements shall control

16.08 Installment Payments. The Village Board, by resolution, may authorize the payment of impact fees, otherwise payable in full, in installment payments. If installment payments are authorized, interest shall be paid on the installment payments at the same rate then charged by the Village on installments of special assessments.

16.09 Appeals. A developer may appeal to contest the amount, collection or use of the impact fee in the manner provided herein:

(a) It shall be a condition to the commencement of such an appeal that the impact fee from which the developer appeals shall be paid as and when the fee or any permitted installment payment becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.

(b) The only questions appealable under this section are the following, as authorized by Sec. 66.0617(10), Wis. Stats.:

(1) The amount of fee charged and paid by the developer;

(2) The method of collection of the impact fee;

(3) The use to which the particular fee paid by the developer is made by the Village.

(c) Appeals must be brought within 30 days of the earlier of:

(1) The date the impact fee is payable hereunder;

(2) In a situation where installment payments are allowed, the due date of the first required installment.

(d) The appellant shall pay a filing fee of \$200 at the time of filing of the appeal. The notice of appeal shall be filed with the Village Clerk

(e) Following the filing of the notice of appeal, the Village Clerk shall compile a record of the ordinance imposing the impact fee that is the subject of the appeal and a record of the management and expenditure of the proceeds of the impact fee, and shall transmit these documents to the Village Board. In consultation with the Village departments, the Village Clerk shall also compile a report on each appeal in which the appellant is seeking a reduction or total refund in the impact fee paid. This report shall specify the fiscal impact on the Village of Ellsworth if the appeal overturns the impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by development on the appellant's property, the report shall estimate whether it will be necessary for the Village to adjust impact fees, or amend existing ordinances, to recover the proposed revenue shortfall.

(f) The Village 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 fee from which the appeal has been taken. Following the close of the public hearing, the Village Board shall deliberate upon the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal.

(g) If the Village 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 Village thereon, or 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.

16.10 Public Water Impact Fee.

(a) A public water impact fee is hereby imposed on all development in the Village of Ellsworth as specified by this Ordinance. The public water impact fee shall be effective with respect to development in any portion of said Impact Fee Area not

currently located in the Village of Ellsworth upon any such portion becoming annexed to the Village of Ellsworth

(b) The public water impact fee is hereby imposed for development being constructed at the time this Ordinance becomes effective or constructed after such time, as well as for modification or addition to existing development where a larger water meter is installed. The public water impact fee is also imposed for installation of a larger water meter where a smaller water meter was originally installed and an impact fee was paid based on such smaller size and the property owner later requires a larger water meter, even if no modification or addition to the development was made subsequent to the installation of the smaller meter. The public water impact fees when a larger meter is installed are sometimes referred to in this Chapter as a "larger meter fee", and shall be imposed according to the size of the new larger meter, subject to reduction for the credit described in (f) (2) below.

(c) The public water impact fee imposed shall be calculated in each instance in the manner set forth in the Report on Water Impact Fees referred to in Section 16.04 of this Chapter ("the Report").

(d) The public water impact fee shall be \$2,200 for each REU.

(e) The total public water impact fee for a particular development shall be based on the size of the water meter installed to service the development according to the following table of meter equivalents:

Meter Size and its Number of REU's (referred to as "Equivalent Meter Conversion" in the Report)

3/4 in. or 5/8 in. = 1 REU

1. in. = 2.5 REU

1.25 in. = 4 REU

1.5 in. = 5 REU

2 in. = 8 REU

3 in. = 15 REU

4 in. = 25 REU

6 in. = 50 REU 8 in. or larger = 8

The impact fee for a particular development shall be equal to the impact fee per REU as set forth in (d) above, multiplied times the number of REU's, as determined by applying the above table of meter equivalents to the size of the meter installed to service the development.

(f) The following shall be fully or partially exempt from payment of a public water impact fee:

- (1) Additions to existing buildings where no additional or larger water meters are requested;
- (2) A larger meter impact fee shall be reduced by a credit in the amount of any impact fees paid with earlier water meter installations.

16.11 Public Police Impact Fee.

(a) A public police impact fee is hereby imposed on all development in the Village of Ellsworth as specified by this Ordinance. The public police impact fee shall be effective with respect to development in any portion of said Impact Fee Area not currently located in the Village of Ellsworth upon any such portion becoming annexed to the Village of Ellsworth.

(b) The public police impact fee is hereby imposed for development being constructed at the time this Ordinance becomes effective or constructed after such time.

(c) The public police impact fee imposed shall be calculated in each instance in the manner set forth in the Report on Police Impact Fees referred to in Section 16.04 of this Chapter ("the Report").

(d) The public police impact fee shall be \$180 for each REU.

(e) The total public police impact fee shall be based upon the number of separate dwelling units built on an individual parcel of land.

(f) The impact fee for a particular development shall be equal to the impact fee per REU as set forth in (d) above, multiplied times the number of dwelling units in that development.

16.12 Public Library Impact Fee.

(a) A public library impact fee is hereby imposed on all residential development in the Village of Ellsworth as specified by this Ordinance. The public library impact fee shall be effective with respect to development in any portion of said Impact Fee Area not currently located in the Village of Ellsworth upon any such portion becoming annexed to the Village of Ellsworth.

(b) The public library impact fee is hereby imposed for development being constructed at the time this Ordinance becomes effective or constructed after such time, as well as for modification or addition to existing development where additional residential units are constructed.

(c) The public library impact fee imposed shall be calculated in each instance in the manner set forth in the Report on Impact Fees referred to in Section 16.04 of this Chapter ("the Report").

(d) The public library impact fee shall be \$300 for each REU.

(e) The total public library impact fee shall be based upon the number of separate dwelling units built on an individual parcel of land.

(f) The impact fee for a particular development shall be equal to the impact fee per REU as set forth in (d) above, multiplied times the number of dwelling units in that development.

6.13 Public Park Impact Fee.

(a) A park impact fee is hereby imposed on all development in the Village of Ellsworth as specified by this Ordinance. The park impact fee shall be effective with respect to development in any portion of said Impact Fee Area not currently located in the Village Of Ellsworth upon any such portion becoming annexed to the Village Of Ellsworth.

(b) The park impact fee is hereby imposed for development being constructed at the time this Ordinance becomes effective or constructed after such time.

(c) The park impact fee imposed shall be calculated in each instance in the matter set forth in the Report on Park Impact Fees referred to in Section 16.04 of this Chapter ("the Report").

(d) The park impact fee shall be \$900 for each REU.

(e) The total park impact fee shall be based upon the number of separate dwelling units built on an individual parcel of land.

(f) The impact fee for a particular development shall be equal to the impact fee per REU as set forth in (d) above, multiplied times the number of dwelling units in that development.

16.14 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 provisions, and such holding shall not affect the validity of the remaining portions of this ordinance. [Ord.530 06/2003]