

Chapter 70

IMPACT FEES

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[HISTORY: Adopted by the Town Board of the Town of Troy 6-9-2003 by Ord No. 03-2; comprehensive text revisions enacted July _____, 2009.]

GENERAL REFERENCES

Building construction – See Ch. 27.

Subdivision of land – See Ch. 135.

§ 70-1. Authority and intent.

Pursuant to authority contained in Wis. Stats. § 66.0617, this chapter is enacted to establish and impose impact fees on developers for the purpose of recovering designated capital costs needed to construct, expand or improve the public facilities that are necessary to accommodate such development. This chapter is intended to assure that new land development in the Town bears an appropriate share of the capital costs necessary to provide such public facilities for the Town as are required to meet the needs arising from such land development. The Town of Troy, by adopting this chapter, is not limiting its authority to finance public facilities by any other means available to it as authorized in Wis. Stats. Chapter 236 or any other statute or ordinance, and it expressly reserves the right in the future to impose different impact fees on different types of land development and/or in such geographically defined zones as may be established.

§ 70-2. Public facilities needs assessment.

The Town of Troy previously had a public facilities needs assessment prepared to identify capital projects, anticipated costs and timelines for which impact fees could be imposed. A copy of the “Public Facilities Needs Assessment, Town of Troy, Wisconsin” dated May 2003, is available for public inspection and copying at the office of the Town Clerk-Treasurer.

§ 70-3. Definitions

In this chapter the following definitions apply:

CAPITAL COSTS - All capital costs to construct, expand or improve public facilities specifically including

the cost of land, legal, engineering and design costs, and the cost of debt service on bonds or similar instruments, when the debt has been incurred for the purpose of proceeding with qualified public facilities projects prior to the collection of all anticipated impact fees for that project, and such other uses as are consistent with § 66.0617, Wis. Stats., and approved by the Town Board. No more than 10% of such capital costs can be for legal, engineering or design costs without the Town being able to document the actual amounts directly related to the public improvement for which the impact fee at issue is being imposed that exceed 10%. Capital costs do not include the cost of acquiring equipment by the Town that will be used to construct, expand or improve public facilities, or vehicles, or other non-capital costs to construct, expand or improve public facilities.

DEVELOPER - a person or entity that constructs or creates land development after June 20, 2003.

DWELLING UNIT – A self-contained living unit consisting of sleeping quarters, bathroom(s) and kitchen used for residential purposes, more than one of which may be located in one building.

LAND DEVELOPMENT – The construction or modification of improvements to real property that creates additional dwelling units or non-residential uses that in turn give rise to the need for new, expanded or improved public facilities in the Town. For purposes of this chapter such need is measured, and impact fees are calculated, by the Residential Equivalent Unit.

PUBLIC FACILITIES – means any of the following: town roads and other transportation facilities, traffic control devices, sewage collection and treatment facilities, stormwater and surface water collection and treatment facilities, water pumping, storage and distribution facilities, public parks, public playgrounds, land for athletic fields, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities, libraries and any recreational facility that had been substantially completed by June 14, 2006.

RESIDENTIAL EQUIVALENT UNIT (REU) – The unit of measure for setting and collecting impact fees under this chapter. One REU represents one dwelling unit, or one acre of industrial or commercial development area, concerning which application is made for a Town building permit for initial, primary-use construction or for primary use reconstruction after the original effective date of this chapter on June 20, 2003.

Additional relevant definitions as set forth in Wis. Stats. §66.0617 or the Town’s Code of Ordinances also apply.

§ 70-4. Establishment of impact fees.

A. The following impact fees are hereby established:

- (1) Road improvement impact fees: \$2,010 per REU, as established by the Public Facilities Needs Assessment of May, 2003.
- (2) Town facilities impact fees: \$380 per REU, as established by the Public Facilities Needs Assessment of May, 2003.

- (3) Recreational improvement impact fees: \$570 per REU, as established by the Public Facilities Needs assessment of May, 2003.
 - (4) Fire protection well impact fees: \$190 per REU, as established by the Public Facilities Needs Assessment of May, 2003.
- B. The impact fees established in this chapter are hereby imposed on any landowner seeking to construct or create land development in the Town, including after-created lots, vacant land and lots in the Town that were created before and after the effective date of this chapter, and for which a building permit is required for initial, primary use principal construction or primary use reconstruction after June 20, 2003.

§ 70-5. Standards for Impact Fees.

All impact fees imposed pursuant to this chapter:

- A. Shall bear a rational relationship to the need for the new, expanded or improved public facilities that are necessary to accommodate land development.
- B. May not exceed the proportionate share of the capital costs of the public facilities required to serve land development as compared to land uses in the Town when a category of impact fee is first imposed.
- C. Shall be based upon actual capital costs or reasonable estimated capital costs for new, expanded or improved public facilities.
- D. Shall be reduced to offset for amounts collected by the Town and applied toward the same capital costs that are not categorized as impact fees, but that are attributable to and based on land development and that provide or pay for new, expanded or improved public facilities such as special assessments, special charges, land dedications or fees in lieu of land dedication under Wis. Stats. Chapter 236, or any other payment or item of value.
- E. Shall be reduced by any revenue received from the federal or state government specifically to provide or pay for public facilities for which impact fees are also imposed under this chapter.
- F. May not include amounts necessary to address existing deficiencies in public facilities and that are related to land development that occurred before June 20, 2003.

§ 70-6. Time limits for expenditures.

- A. Regardless of when imposed, impact fees, once collected, shall be used for their designated purpose(s), and in accordance with the requirements of state law, by the following dates:
 - (1) Impact fees collected by the Town before April 11, 2006 must be used for their designated purpose(s) before the earlier of May 1, 2016, or ten years after the date collected by the Town.

- (2) Impact fees collected by the Town between April 10, 2006 and June 20, 2010, must be used for their designated purpose(s) before June 20, 2013. This deadline may be extended by up to three years when the Town Board determines that extenuating circumstances or hardship results in the need for such an extension. The Town Board must pass a resolution to that effect, setting forth detailed written findings describing such circumstances or hardship.
 - (3) Impact fees collected by the Town after June 20, 2010, must be used for their designated purpose(s) within a reasonable time after collection, to be established for specific improvements in future revisions to the Town's Public Facilities Needs Assessments.
- B. After the applicable time for use of the impact fee has expired, impact fees collected by the Town and not used for their designated purpose(s) within the time periods specified above shall be refunded to the record owner of the property against which the unused impact fee was imposed, plus accumulated interest on the specific fee being refunded.

§ 70-7. Payment.

Unless voluntarily paid earlier, impact fees shall be paid in full as a condition of and before the issuance of a Town building permit affecting the land to which the impact fee applies. Impact fees will be paid in the amounts and for the purposes in effect at the time of building permit issuance. Impact fee payment is the responsibility of the owner of record at the time of building permit issuance. All developers of vacant land in the Town against which impact fees are imposed shall inform prospective buyers of the fact and amount of all known and unpaid impact fees before entering into a binding purchase agreement concerning land so affected.

§ 70-8. Administration.

The Clerk/Treasurer shall deposit the revenue collected for each category of impact fee into segregated interest-bearing accounts and shall account for each category of impact fee separately from the other funds of the Town. Impact fees and interest earned on impact fees shall be used only for the particular category of capital cost for which they are imposed.

§ 70-9. Appeals.

- A. Appeals are taken to the Town Board and must be filed within 30 days after collection by the Town of the impact fee at issue.
- B. No appeal may be commenced while an applicable impact fee payment is delinquent.
- C. The only issues that can be appealed are:
 - (1) The amount of the impact fee,
 - (2) The method of collection of the impact fee, and

- (3) The use of the collected impact fee by the Town.
- D. The appellant shall pay a filing fee of \$200.00 when the written notice of appeal is filed with the Town Clerk-Treasurer. The notice of appeal shall contain all relevant facts, the grounds for appeal and the relief being requested.
- E. After the appeal is properly filed, the Town Clerk-Treasurer shall locate and prepare information concerning the basis for and date(s) of imposition and collection of the contested impact fee, its management and expenditure and provide that information to the Town Board and the appellant in advance of the hearing. The Town Clerk-Treasurer shall also calculate and report to the Town Board and the appellant on the fiscal impact of a successful appeal on the Town and whether it will be necessary for the Town to adjust its impact fees or amend this Chapter if the appeal is successful.
- F. The Town Board shall hold a public hearing concerning the appeal, preceded by a Class 1 notice, and shall provide fair opportunity for the appellant to be heard. The burden is on the appellant to establish the illegality or impropriety of the impact fee at issue. Following the close of the public hearing, the Town Board shall deliberate upon the matter, conduct any additional studies and inquiries it deems appropriate and decide the appeal.
- G. If the Town Board determines that the appeal has merit, it shall also determine any appropriate remedy. Available remedies 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, with interest; or such other remedies as the Town Board deems just in a particular case.

§ 70-10. Reduction in impact fee.

The Town Board may, in its sole discretion reduce the amount of the impact fee that would otherwise be imposed on a specific land development, or exempt it completely, from all or any category of impact fees in order to reasonably accommodate the construction of low cost housing in the Town. No portion of any impact fee for which a reduction is provided shall be shifted to any other land development in the Town.

§ 70-11. Periodic review of impact fees.

The Town Board shall periodically review its impact fee structure and categories and make appropriate modifications to respond to changing facility needs, inflation, revised cost estimates, changes in other funding sources applicable to public facility projects and other relevant factors.