

TOWN OF GARFIELD

Ordinance No. 1 – 2007

Ordinance Establishing Impact Fees

Pursuant to its authority under Wisconsin law, including, Wis. Stat. 66.0617, the Town Board of the Town of Garfield hereby ordains as follows:

Section – 1.0 Purpose and Intent.

Pursuant to Wis. Stat. 66.0617, this Ordinance is enacted to establish the mechanism for imposing impact fees upon land development to finance the capital cost of acquiring, establishing, upgrading, expanding, and constructing public facilities that are necessary to accommodate such development. This Ordinance is intended to assure that new land development bears an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Town of Garfield and its service areas as are required to serve the needs arising out of land development. As provided in Sec. 66.0617(2)(b), Wis. Stats., the Town of Garfield, 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 the Subdivision Ordinance of the Town of Garfield, and any other statutes or ordinances.

Section – 2.0 Public Facilities Needs Assessment.

In accordance with Sec. 66.0617 (4) Wis. Stats., the Town of Garfield has prepared a Public Facilities Needs Assessment for which it is anticipated that impact fees may be imposed. A copy of the Public Facilities Needs Assessment, Town of Garfield, Wisconsin dated December 2006 prepared by Stevens Engineers is on file and available for public inspection and copying at the office of the Town Clerk.

Section – 3.0 Definitions.

The definitions set forth in Sec. 66.0617 (1) Wis. Stats., and any amendments thereto, are hereby incorporated and made a part of this Ordinance as if fully set forth herein. In addition, in this chapter the following definition shall apply:

- (a) “Residential Equivalent Unit (REU)” means a unit of measure for impact fees equivalent to one single family residential dwelling unit. For single family residential uses, the REU is the number of single family residential units created by new land development.

Multi-dwelling residential development and non-residential uses, such as commercial or industrial development will be proportionately converted to REU for the purpose of assessing an impact fee using generally accepted and established standards.

Section – 4.0 Establishment of Impact Fees.

The following impact fees for single family residential development are established by the Town pursuant to Sec. 66.0617, Wis. Stats.:

- (a) Facilities for transportation impact fees in the amount of \$1963.67* per REU as set forth in the Public Facilities Needs Assessment.
- (b) Facilities for park impact fees in the amount of \$465.22* per REU as set forth in the Public Facilities Needs Assessment.
- (c) Facilities for other transportation impact fees in the amount of \$592.51* per REU as set forth in the Public Facilities Needs Assessment.

**Please note: all other development, such as commercial, industrial, and multi-dwelling residential units will be calculated proportionately based on the 'vehicle trips by land use type' table found in Appendix C of the Needs Assessment.*

These impact fees shall be imposed on any person seeking to construct or create a land development within the Town, including land development on vacant land, and land development on lots created before and after the effective date of this Ordinance.

Section – 5.0 Standards for Fees.

Impact Fees imposed under this section:

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

- (e) Shall be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.
- (f) May not include amounts necessary to address existing deficiencies in public facilities.

Section 6.0 Time Limit for Expenditures.

In accordance with Sec. 66.0617 (9) (a) Wis. Stats., the Town of Garfield shall specify that impact fees will be used within 7 years after they are collected to pay for capital costs for which they were imposed.

Impact fees held by the Town and not used within the time period shall be refunded to the current owner of property with respect to which the impact fees were imposed.

Section – 7.0 Payment of Impact Fees.

In accordance with Sec. 66.0617 (6) (g) Wis. Stats., all required impact fees shall be payable by the developer or the property owner to the Town of Garfield in full within 14 days of the issuance of a building permit.

Section – 8.0 Administration of Impact Fees.

Revenues collected by the Town as impact fees shall be placed by the Town Treasurer in a separate segregated, interest-bearing account and shall be accounted for separately from the other funds of the Town of Garfield. Impact fee revenues and interest earned on impact fee revenues may be expended by the Town only for capital costs for which the impact fees were imposed. These costs may include the cost of debt service on bonds or similar 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 Town for advances of other funds or reserves, and such other uses

consistent with Wis. Stat. 66.0617, which are recorded by the Town Board.

Section – 9.0 Installment Payments.

The Town Board may, in its sole discretion, authorize by resolution the payment of impact fees in installment payments. If installment payments are authorized, interest shall be paid on the installment payments at the same rate then charged by the Town on installment payments for special assessments.

Section – 10.0 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 Sec. 66.0617(10) Wis. Stats., the only issues upon which an impact fee appeal can be raised are the following:
 - a. The amount of the impact fee imposed by the Town and paid by the developer or property owner;
 - b. The method of collection of the impact fee;
 - c. The purpose for which the Town expends the impact fee funds.
- (c) Appeals must be brought within 30 days or the earlier of :
 - a. The due date for payment of the applicable impact fee; or
 - b. The due date of the first installment payment.
- (d) The appellant shall pay a filing fee of \$200.00 at the time of filing of the appeal. The notice of appeal shall be filed with the Town Clerk.

- (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 fees. 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 Garfield. 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, 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 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 – 11.0 Reduction in Impact Fee.

The Town Board may, at its sole discretion, agree to reduce the amount of the impact fee imposed on a specific land development that provides state or federal funded low or moderate income housing within the Town. Pursuant the Wis. Stat. 66.0617 (6) no amount of an impact fee for which a reduction is provided under the 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 Town of Garfield.

Section – 12.0 Periodic Review of Impact Fees.

The Town Board may periodically review the impact fees established herein and modify them, if necessary, to account for changing facility needs, inflation, revised cost estimated capital improvements, changes in other funding sources applicable to public facility projects and other relevant factors and in accordance with the standards for impact fees set forth in Wis. Stat. 66.0617.

Section – 13.0 Severability.

If any section, phrase, sentence, or portion of the ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion(s) shall be deemed separate, distinct, and independent provisions. Any such holding shall not affect the validity of the remaining portions of this ordinance.


Section – 14.0 Codification.

It is the intention of the Town Board and it is hereby provided that the provisions of this ordinance shall be made part of the Municipal Code, and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention; and that the work “ordinance” may be changed to “section”, “article”, or other appropriate designation.

Section – 15.0 Effective Date.

This ordinance shall take effect after public hearing thereon, approval by the Town Board, and publication as provided by law.

Effective this 19 day of FEB, 2007.



Edward Gullickson, Town Chairperson



Hazel Nelson, Town Clerk