

ORDINANCE NO. 2007-002AN ORDINANCE TO IMPOSE IMPACT FEES ON DEVELOPERS
TO PAY FOR THE CAPITAL COSTS THAT ARE NECESSARY TO
ACCOMMODATE LAND DEVELOPMENT

WHEREAS, Wisconsin Statute Section 66.0617 authorizes a political subdivision, including the Town of Delafield, to enact an Ordinance that imposes impact fees on Developers to pay for the capital costs that are necessary to accommodate land development; and

WHEREAS, the public facilities for which impact fees may be imposed include facilities for parks, playgrounds, and acquiring athletic fields pursuant to Wisconsin Statute Section 66.0617(1)(f); and

WHEREAS, after carefully considering this matter, and in order to reasonably determine the existing and future public facilities needs related to providing the appropriate space for parks, playgrounds, and athletic fields in the Town of Delafield, the Town of Delafield Town Board authorized the preparation of a public facilities needs assessment related to park and recreation facilities in the Town of Delafield; and

WHEREAS, the public facilities needs assessment was prepared in accordance with Wisconsin Statute Section 66.0617(4) Wisconsin Statute; and

WHEREAS, said public facilities needs assessment was made available for public inspection and copying in the Office of the Town of Delafield Clerk at least twenty (20) days before a public hearing was held in this matter; and

WHEREAS, Notice of Public Hearing regarding this matter was published as a Class I Notice under Chapter 985 Wisconsin Statutes, including specifying where a copy of the proposed Ordinance and the Public Facilities Needs Assessment could be obtained; and

WHEREAS, the Town Board of the Town of Delafield held a public hearing on the proposed Ordinance at the Town of Delafield Hall on March 13, 2007; and

WHEREAS, the Town Board finds that the conclusions of the Park Master Plan as summarized in the Impact Fee Calculation are reasonable and appropriate with regard to the impact fees relevant to facilities needed parks, playgrounds, and athletic fields, and in particular the Town Board finds that the same:

- a. bears a rational relationship to the need for new, expanded or improved public facilities that are required to serve future land development;
- b. do not exceed the proportionate share of the capital costs that are required to serve future land development, as compared to existing uses of land within the Town of Delafield;
- c. is based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities;
- d. compensates, as necessary, for other capital costs proposed by the Town of Delafield 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 Chapter 236, or any other items of value;
- e. compensates, as necessary, for monies received from the Federal or State Government specifically to provide or pay for public facilities for which the impact fees are imposed;
- f. does not include amounts necessary to address existing deficiencies in public facilities;
- g. shall be payable in full by the Developer or the property owner to the Town of Delafield, within 14 days of the issuance of a building permit or an occupancy permit; and

WHEREAS, with regard to the impact fees collected for parks, playgrounds, and athletic fields, the Town Board shall refund to the then-current owner of the property such fees as may be collected but which are not used within 7 years from the date they were collected as required by statute; and

WHEREAS, with regard to the facilities for parks, playgrounds, and athletic fields, the Town Board finds that the appropriate planning period is 7 years and the appropriate financing period is 10 years; and

WHEREAS, the Town Board has determined that appeals made by a Developer to contest the amount, collection or use of the impact fee shall be made to the Town Board utilizing the procedures found in §18.03(7) of the Town Code.

NOW THEREFORE, The Town Board of the Town of Delafield, Waukesha County, Wisconsin, does hereby ordain as follows:

SECTION 1:

IMPACT FEES FOR PARK, PLAYGROUND, AND ATHLETIC FIELD FACILITIES

- (1)(a) 1. The Town Board of the Town of Delafield hereby imposes an impact fee on the Developer or the property owner of property located in the Town to pay for the capital costs that are necessary to accommodate future land development with regard to park, playground, and athletic field facilities in the Town of Delafield. The amount of the impact fee shall be as follows:

Park Impact Fee	\$ 1,620.00
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- (1)(a)2. The impact fee shall only be applicable to residential development, including parcels developed by certified survey maps.

- (1)(a)3. The Town reserves the discretion to waive all or part of an impact fee for proposed residential development where the Town Board has determined that a dedication of land, under the provisions of §18.09(1), Town of Delafield Code, would best suit the needs of the Town.

(b) In order to account for future increases in construction costs and interest costs, and in order to ensure that the fees are equitably distributed between current and future Developers, the impact fees described herein shall automatically adjust on an annual basis on January 1 of each year by the percentage increase or decrease in the United States Bureau of Labor Statistics, Midwest Region, All Items Consumer Price Index for All Urban Consumers, from January 1 of the preceding year.

(2) ACCOUNTING.

Revenues from each impact fee imposed shall be placed in a separate segregated interest-bearing account and shall be accounted for separately from the other funds of the Town of Delafield. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fees were imposed, unless the fee is refunded as provided herein or by statute.

(3) REFUND OF IMPACT FEES.

Impact fees that are imposed and collected by the Town of Delafield pursuant to this ordinance for the park, playground, and athletic field facilities, must be spent or refunded within

7 years, unless extended by resolution, from the date the fee is collected, pursuant to §66.0617(9), Stats. Refunds shall be made to the then-current owner of the property with respect to which the impact fees were imposed.

(4) SPENDING DEADLINE

The reasonable time frame within which the impact fee must be spent or refunded is 7 years, unless extended by resolution for 3 years due to extenuating circumstances or hardship in meeting the 7 year deadline.

(5) PAYMENT.

Developers shall pay in full impact fees to the Town of Delafield within 14 days of the issuance of a Building Permit.

(6) APPEAL.

Pursuant to Wisconsin Statute 66.0617(10), a Developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the Town of Delafield Town Board utilizing the procedures set forth in §18.03(7) of the Town Code.

(7) INTERPRETATION.

The Town of Delafield exercises this authority pursuant to Wisconsin Statutes Section 66.0617, and this Ordinance shall be interpreted in conjunction with said Statute, including but not limited to the definitions set forth below, including any future revisions thereto:

“Developer” means a person that constructs or creates a land development;

“Land development” means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a political subdivision.

SECTION 2: Section 18.07(3)(c) of the Town Code, entitled "Proportionate Payment in Lieu of Dedication" shall be repealed in its entirety.

SECTION 3: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

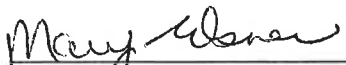
Dated this 13 day of March 2007.

TOWN OF DELAFIELD



Paul L. Kanter, Chairman

ATTEST:


Mary Elser, Clerk

Published and/or posted this 14 day of March 2007.