

**TOWN OF ELLINGTON
PARK AND RECREATION IMPACT FEE ORDINANCE**

**AN ORDINANCE ESTABLISHING A PARK AND
RECREATION IMPACT FEE FOR NEW RESIDENTIAL
DEVELOPMENT IN THE TOWN OF ELLINGTON # 2008-03**

SECTION 1.0 INTRODUCTION.

1.1 Authority. This ordinance is adopted pursuant to authority conferred by Section 66.0617, Wisconsin Statutes.

1.2 Purpose. The purpose of this ordinance is to promote the public health, safety and general welfare of the Town of Ellington, by facilitating adequate and equitable financing for the provision of parks, playgrounds and athletic fields in the Town of Ellington. This ordinance imposes an impact fee upon developers or property owners to pay for the capital costs for additional recreational facilities necessary to accommodate and serve new residential development within the Town of Ellington.

1.3 Definitions.

(1) Capital Costs. The capital costs 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 Town 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. Capital costs do not include other non-capital costs to construct, expand or improve public facilities, vehicles; of the costs of equipment to construct, expand or improve public facilities.

(2) Developer or Property Owner. A person that constructs or creates land development.

(3) Impact Fees. Cash contributions, contributions of land or interests in land, or any other items of value that are imposed on a developer or property owner by the Town under this ordinance.

(4) Land Development. The construction or modification of improvements to real property that creates additional residential dwelling units within the Town, or that results in non-residential uses that created a need for new, expanded or improved public facilities within the Town.

(5) Public Facilities. Highways, as defined in s. 340.01(22) Wisconsin Statutes, and other transportation facilities; traffic control devices; facilities for collecting and treating sewage; facilities for collecting and treating storm and surface waters; facilities for pumping, storing and distributing water; parks, playgrounds and land for athletic facilities; solid waste and

recycling facilities; fire protection facilities; law enforcement facilities; emergency medical facilities; and libraries. "Public facilities" does not include facilities owned by a school district.

(6) Public Facilities Needs Assessment.

1. An inventory of existing public facilities, including an identification of any existing deficiencies in the quantity or quality of those public facilities, for which it is anticipated that an impact fee may be imposed.

2. An identification of the new public facilities, or improvements or expansions of existing public facilities, that will be required because of land development for which it is anticipated that impact fees may be imposed. This identification shall be based on explicitly identified service areas and service standards.

3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2, including an estimate of the effect of recovering these capital costs through impact fees of the availability of affordable housing within the political subdivision.

(b) A public facilities needs assessment or revised public facilities needs assessment that is prepared under this subsection shall be available for public inspection and copying in the office of the clerk of the political subdivision at least 20 days before the hearing under sub. (3).

(7) Service Area. The Town of Ellington, Outagamie County, Wisconsin.

(8) Service Standard. A certain quantity or quality of public facilities relative to a certain number of persons, parcels of land or other appropriate measure, as specified by the Town.

(9) Town. The Town of Ellington, Outagamie County, Wisconsin.

SECTION 2.0 GENERAL PROVISIONS.

2.1. Standards for Impact Fees. The following standards apply to impact fees established and imposed by this ordinance.

(1) Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.

(2) May not exceed the proportionate share of the capital costs that are required to serve land development as compared to existing uses of land within the Town.

(3) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.

(4) Shall be reduced to compensate for other capital costs imposed by the Town 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 or any other items of value.

(5) Shall be reduced to compensate for monies received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.

(6) May not include amounts necessary to address existing deficiencies in public facilities.

(7) Shall be payable by the developer to the Town either in full or in installment payments that are approved by the Town, before a land division or subdivision or other required approval may be given by the Town.

2.2 Requirements for Impact Fee Revenues. Revenues for impact fees shall be placed in a segregated interest bearing account and shall be accounted for separately from other funds of the Town. The Town shall keep an account of all impact fees paid by date, tax parcel number and amount. Impact fee revenues and interest earned on impact fee revenues may be expended only for capital costs for which the impact fees are imposed.

2.3. Refund of Impact Fees. Impact fees that are imposed and collected by the Town but are not used within ten (10) years after they are collected to pay for the capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which impact fees were imposed. In the event the property has been divided or subdivided subsequent to the collection of the impact fee, the Town shall appropriately apportion the refund among the parcels.

SECTION 3.0 ESTABLISHMENT OF PARK AND RECREATION IMPACT FEE.

3.1. Park and Recreation Needs Assessment. The establishment of a Town of Ellington park and recreation impact fee is based upon the Town of Ellington Park and Recreational Needs Assessment dated February 25, 2008 and adopted by Town Board Resolution No. 08-01 .

3.2. Impact Fee. There is hereby established a Town of Ellington Park and Recreation Impact Fee in the amount of \$700 per dwelling unit.

3.3. Payment of Fee. The Town of Ellington Park and Recreation Impact Fee shall be payable in full by the developer or property owner upon the issuance of a residential building permit by the Town. Any building permit issued prior to the full payment of the fee is conditional and may be revoked for nonpayment of the fee after 14 days has elapsed after issuance.

3.4 Discretionary Reduction or Waiver of Fee. The Town Board may reduce or waive the Park and Recreation Impact Fee for moderate income housing defined as housing which is 80 percent

or less of the Town current median value. The Town Board may also reduce or waive the Fee for dwellings in a conservation subdivision which, in the discretion of the Town Board, provides alternative open space and recreational opportunities for the owners.

3.5 Mandatory Reduction of Fee. The impact fee imposed under this ordinance shall be reduced to compensate for land acquisition and capital costs received by land dedication for parks under the Town Subdivision Ordinance or funds received through grants by federal and state governmental agencies to develop new parks after the effective date of this Ordinance.

4.0 ADMINISTRATION.

4.1 Amendments to Ordinance . The Town Board may amend this ordinance. The Town Board shall hold a public hearing. Notice of the public hearing shall be published as a Class 1 notice under Chapter 985, Wis. Stats., and shall specify where a copy of the ordinance and amendment and the public facilities needs assessment may be obtained. The public facilities needs assessment or revised public facilities needs assessment shall be available for public inspection and copying at the Town Clerk's office at least 20 days before the public hearing.

4.2 Revisions to Public Facilities Needs Assessment. Any revision or amendment to the public facilities needs assessment shall be adopted by the Town Board by resolution. Copies of the revised or amended public facilities needs assessment shall be available for public inspection and copying at the Town Clerk's office at least 20 days prior to Town Board action adopting such revision or amendment. The Town Clerk shall keep a record of all public facilities needs assessments and revisions and amendments thereto.

4.3 Appeals. Any developer/owner who is required to pay an impact fee under this ordinance may appeal the basis of the fee; the applicability of the fee; the amount of the fee; the amount of refund or the use of the fee to the Town Board within 30 days from the date the fee is due and payable or a refund is received. The appeal shall be in writing and shall specify the basis or the grounds upon which the appeal is taken. The Town Board shall provide a hearing on the appeal within 45 days of the receipt of the appeal. The Town shall serve the appellant with notice of such hearing by mail or personal service at least 10 days before such hearing. Witnesses testifying at the hearing may be sworn by the Town Clerk. The Town Clerk shall mark all exhibits and the proceedings shall be recorded. Within 14 days after the hearing the Town shall render a written determination stating the reasons therefor. The written determination shall be a final determination and mailed or delivered to the appellant.


4.4 Judicial Review. Any person aggrieved by a final determination may seek review thereof by certiorari within 30 days of receipt of the final determination.

4.5 Severability. If any provision of this ordinance is declared invalid or illegal for any reason, that invalidity or illegality shall not affect the remaining provisions of this ordinance which shall remain in full force and effect.

Dated this 23rd day of April, 2008.

ATTEST:


Bonnie Fischer, Clerk


Orville Nelson, Town Chair

Revised 2/26/08