

## ORDINANCE NO. 2023-03

Whereas, the Town Board has reviewed Chapter 101 of the Code of the Town of St. Joseph regarding Fees; and

Whereas, on November 9, 2023, the Town Board held a properly noticed (Class 2) public hearing on the proposed Town Fees Ordinance No. 2023-03;

NOW THEREFORE, the Town Board, having reviewed the proposed fees ordinance, hereby adopts Ordinance No. 2023-03 as the Town of St. Joseph Fees Ordinance.

Passed and adopted by the Town Board of the Town of St. Joseph this 9<sup>th</sup> day of November, 2023.



Theresa Johnson, Town Chair

Attest:

  
Teri Kelly, Town Clerk/Treasurer

## ORDINANCE NO. 2023-03

Whereas, the Town Board has reviewed Chapter 101 of the Code of the Town of St. Joseph regarding Fees; and

NOW THEREFORE, the Town Board hereby ordains that existing Chapter 101 be repealed and replaced with Chapter 101 as set forth in this ordinance as follows:

# Chapter 101 Fees

**[HISTORY: Adopted by the Town Board of the Town of St. Joseph as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Mobile homes and mobile home parks — See Ch. 130.

Subdivision of land — See Ch. 168.

Zoning — See Ch. 198.

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### Article I Impact Fees

**[Adopted 11-8-2018 by Ord. No. 2018-2]**

#### § 101-1 Purpose and intent.

When undeveloped land is developed for residential or commercial/industrial purposes, it often creates a need for additional transportation as well as parks and recreational facilities and other public facilities. Without the generation of new revenue sources, municipalities often must choose between foregoing needed public facilities and imposing higher property taxes. The imposition of impact fees has become an increasingly important source of local revenue to pay for public facilities that are necessary to serve new development. The State Legislature has adopted an impact fee law which helps communities raise funds to pay for new development and maintain current levels of services. Pursuant to the authority granted to the Town of St. Joseph by § 66.0617(2), Wis. Stats., the Town Board hereby enacts this article to enable it to impose impact fees on developers to pay their fair share for the capital costs that are necessary to accommodate land development and to maintain current levels of service to those developing areas of the Town. The impact fees created by this article shall apply to all development in the Town, whether the property is owned privately or by any political corporation, governmental subdivision or agency thereof, or any nonprofit organization, including any religious or other eleemosynary organization.

#### § 101-2 Definitions.

The definitions set forth in § 66.0617(1), Wis. Stats., and any amendments thereto, are hereby incorporated and made a part of this article as if fully set forth herein, along with the following additions:

#### COMMERCIAL/INDUSTRIAL DEVELOPMENT

For purposes of this article and public facilities needs assessment, nonresidential development, and includes commercial and industrial development and also nonprofit institutional or governmental uses such as churches, schools, libraries, government buildings and other similar uses.

### **RESIDENTIAL EQUIVALENT UNIT (REU)**

A unit of measurement used in the calculation of impact fees. For residentially zoned properties, one residential equivalent unit (REU) is equivalent to one single-family residential dwelling unit.

#### **§ 101-3 Needs assessment.**

In accordance with § 66.0617(4), Wis. Stats., the Town Engineer for the Town of St. Joseph has prepared a needs assessment for the public facilities for which it is anticipated that impact fees may be imposed. A copy of the needs assessment is on file and available for public inspection and copying in the office of the Town Clerk-Treasurer.

#### **§ 101-4 Standards for impact fees.**

Impact fees imposed under this article:

- 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 uses of land within the Town.
- C. Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
- D. 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 under Ch. 236, Wis. Stats., or any other items of value.
- E. 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.
- F. May not include amounts necessary to address existing deficiencies in public facilities.

#### **§ 101-5 Use of impact fees.**

Revenues collected by the Town as impact fees shall be placed by the Town Clerk-Treasurer in segregated interest-bearing accounts and shall be accounted for separately from other funds of the Town. Funds collected from impact fees shall be used solely for the purpose of paying the proportionate costs of providing public facilities that may become necessary due to development. These costs may include the costs:

- A. Of debt service on bonds or similar debt 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;
- B. To reimburse the Town for advances of other funds or reserves used to pay for capital costs for which the impact fee was imposed; and
- C. Such other purposes consistent with § 66.0617, Wis. Stats., which are approved by the Town Board.

#### **§ 101-6 Collection and payment.**

- A. Unless expressly exempted in a section of this article, and except as provided in Subsections **B** and **C** of this section, all impact fees shall be paid in full at the time of building permit issuance.

- B. If provisions of this article are inconsistent with any terms addressing imposition or payment of impact fees in any developer's agreement executed before the adoption of this article, the terms of any such developer's agreement(s) shall control.
- C. In the event that § 66.0617, Wis. Stats., or any successor statute, requires impact fee payments to be made later than at the time of building permit issuance, then any impact fees shall be payable on the earliest date allowed under state law.
- D. Owners of properties which are developed for the sole use of nonprofit organizations and are not intended for resale to other parties may petition the Town Board to be allowed to convert these impact fees into an impact fee special assessment paid over no more than a five-year period. Said impact fee special assessment shall be certified on the property tax roll and collected along with property taxes. Upon any future sale or change in the use of the property, the outstanding balance shall be paid in full to the Town. All other provisions of this article shall apply. The Town Board may require the submittal of any information it deems necessary to verify the nonprofit or charitable status of the developer as part of the application process. The Town Board, in its sole discretion, may create additional conditions to any impact fee special assessment approved pursuant to this subsection, including, but not limited to, the addition of an administrative and/or interest charge for being allowed to pay the impact fee over a period of years. No cost associated with conversion of impact fees into an impact fee special assessment under this subsection may be shifted to any other land development in the Town.

**§ 101-7 Time limit for expenditures.**

- A. The Town determines the following as maximum lengths of time appropriate for the planning, financing, acquisition and construction of the public facilities listed:
  - (1) Roadway improvements: 20 years.
  - (2) Fire protection and emergency medical facilities: 20 years.
  - (3) Parks, playgrounds and land for athletic fields: 10 years.
- B. Pursuant to § 66.0617(9), Wis. Stats., impact fees held by the Town under this article and not used within the following time periods shall be refunded to the persons who are the owners of record, at the expiration of such time period, of the property upon which the impact fees were imposed:
  - (1) Impact fees collected after December 31, 2002, and before April 11, 2006, must be used not later than the first day of the 120th month beginning after the date on which the fee was collected.
  - (2) Impact fees collected after April 10, 2006, and within seven years of the effective date of the adoption of this article must be used within 10 years of the effective date of this article, subject to possible three-year extension if the Town passes a resolution that includes detailed written findings specifying the extenuating circumstances or hardship supporting the need for the extension.
  - (3) Impact fees collected after April 10, 2006, and that are collected more than seven years after the effective date of this article: Such impact fees shall be used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed or shall be refunded. Reasonable time periods under this subsection shall be the time periods stated in § **101-7A** above.
- C. Impact fees shall be considered to be "used" within the meaning of this section when:
  - (1) The collected impact fees are spent to pay for the capital costs for the designated public facility;
  - (2) When debt is incurred to pay for the capital costs for the designated public facility, and such debt is committed to be repaid, in whole or in part, by the use of impact fees imposed and collected under this

article; or

- (3) When other Town funds are used to pay for the capital costs for the designated public facilities and such Town funds are committed to be repaid in whole or in part by impact fees collected under this article; or
- (4) Impact fees are in some other way committed to pay the capital costs of public facilities designated in the public facility needs assessment.

**§ 101-8 Establishment of impact fees and fee schedule.**

- A. The Town Board hereby establishes impact fees to pay for the construction, expansion or improvement of public facilities, the need for which is caused by new development. The public facilities for which impact fees are imposed under this article are: roads; parks, playgrounds and land for athletic fields; and fire protection and emergency medical facilities. The basis for the imposition of these impact fees is the most current public facilities needs assessment report and its attachments, prepared by Stantec, which is on file in the office of the Town's Clerk-Treasurer.
- B. The impact fees established in the fee schedule below shall be imposed on any person seeking to construct or create a land development within the Town, including land development on vacant or partially vacant land, and land development on lots created before and after the effective date of this article. Impact fees for residential development shall be imposed on a per-residential-equivalent-unit basis as set forth in the public facilities needs assessment. Impact fees for commercial or industrial development shall be imposed based on the square footage, or other applicable unit of measure, of the proposed new commercial or industrial building, or significant modifications to existing buildings that create a need for new, expanded or improved public facilities, as set forth in the public facilities needs assessment. Park and recreational improvement impact fees are not imposed on commercial/industrial development.
- C. The Town Board may periodically review and amend the impact fee ordinance as necessary to address changing public facility needs, inflation, revised cost estimates, 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 § 66.0617, Wis. Stats.
- D. The impact fee schedule is as follows:

<b>Category of Fee</b>	<b>Residential per REU</b>	<b>Commercial/Industrial Development</b>
Roadways	\$999	Varies-Trip Based
Fire Protection and EMR	\$0	\$0.07 per square foot of building
Parks and playgrounds	\$704	\$0
Total impact	\$1703 per unit or REU	Varies

- E. A trip rate table shall be kept on file by the Town Clerk-Treasurer and Town Zoning Administrator for use in determining the roadway improvements fee for commercial/industrial uses in Subsection **D** above. The trip rate table will list common commercial/industrial land uses and their respective trip generation rates. The table shall be prepared in consultation with the Town's consulting engineer and

shall be based on the latest edition of "Trip Generation," published by the Institute of Transportation Engineers (ITE). The trip rate table shall be reviewed and updated periodically by the Town Board.

- F. The roadway improvement fee for commercial/industrial uses shall be calculated by multiplying together three numbers: the per-trip amount in Subsection **D** above, the trip rate for the applicable land use from the trip rate table, and the number of units for the applicable land use, such as number of building square feet, number of hotel rooms, number of gas pumps, etc.
- G. For land uses which do not fall into a category on the trip rate table, the Town Zoning Administrator shall make the determination of an appropriate land use and trip rate, based on the latest edition of ITE's "Trip Generation."
- H. For existing uses converted to a different, more intense use, the roadway improvement impact fee for commercial/industrial uses shall be calculated as in Subsection **F** above, but the trip rate used will be the difference in the existing and new trip rates, calculated by subtracting the lower existing trip rate from the new higher trip rate, both rates derived from the trip rate table or as provided for in this article.

### § 101-9 Appeals.

A developer or property owner upon whom an impact fee is imposed may appeal to contest the amount, method of collection or purpose for which the impact fee funds are used. Appeal procedures and criteria are provided in this section as follows:

- A. No appeal may be commenced pursuant to this article if any applicable impact fee or installment payment is delinquent. No impact fee payment obligation shall be suspended during the pendency of any appeal filed pursuant to the article.
- B. Pursuant to § 66.0617(10), Wis. Stats., the only issues upon which an impact fee appeal can be raised are the following:
  - (1) The amount of impact fee imposed by the Town.
  - (2) The method of collection of the impact fee.
  - (3) The purpose for which impact fee funds are expended by the Town.
- C. Appeals must be brought within 15 days of the due date of payment of the applicable impact fee.
- D. The appellant shall file a notice of appeal with the Town Clerk-Treasurer and pay a filing fee of \$200.
- E. Following the filing of the notice of appeal, the Town Clerk-Treasurer shall compile a record of the chapter imposing the contested impact fee and a record of the management and expenditure of the impact fee. The Town Clerk-Treasurer shall transmit these documents to the Town Board. The Town Clerk-Treasurer 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 St. Joseph. The fiscal impact report shall estimate whether it will be necessary for the Town to adjust impact fees or amend the existing article if there is a successful appeal.
- F. The Town Board shall hold a public hearing on the appeal, preceded by a Class I notice, providing fair opportunity for the appellant to be heard. The burden shall be 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 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.

**§ 101-10 Severability.**

If any article 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 article or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the article. The remainder of the article shall remain in full force and effect. Any other chapters whose terms are in conflict with the provisions of this article are hereby repealed as to those terms that conflict.