

**AN ORDINANCE OF THE TOWN OF VIENNA ESTABLISHING IMPACT FEES FOR WATER UTILITY FACILITIES WITHIN THE DEFOREST-VIENNA JOINT DEVELOPMENT AREA.**

WHEREAS, the Vienna Town Board finds that land development within the Vienna-DeForest Joint Development Area is creating the need for additional public facilities; and

WHEREAS, the Vienna Town Board has determined that it is reasonable and appropriate that the cost of providing new and expanded water utility facilities necessary to serve new developments be borne by the developments that create the need; and

WHEREAS, the Vienna Town Board desires to finance a portion of the cost of such new and expanded water utility facilities through the imposition of impact fees; and

WHEREAS, §66.0617 of the Wisconsin Statutes authorizes the Town to impose impact fees for the capital cost of new and expanded public facilities to the extent the need therefor is created by new developments; and

WHEREAS, in accordance with §66.0617(4) of the Wisconsin Statutes, the Village of DeForest, the public water utility owner, has prepared a needs assessment for the DeForest Water Utility Service Area, which includes:

1. An inventory of existing public water utility facilities, including the identification of any existing deficiencies in the quality and quantity of those public facilities for which it is anticipated that an impact fee may be imposed.
2. The identification of the new public water utility facilities, or improvements or expansions of existing facilities that will be required because of land development.
3. A detailed estimate of the capital costs of providing the new public water utility facilities or the improvements or expansions in the existing water utility facilities; and

WHEREAS, as provided by §66.0617(4)(b) of the Wisconsin Statutes, said needs assessment has been made available for public inspection and copying at the Town of Vienna Office since June 26, 2006; and

WHEREAS, in accordance with §66.0617 of the Wisconsin Statutes a class one notice under Chapter 985 was published in the DeForest Times-Tribune on \_\_\_ July 7 \_\_, 2006 providing notice of a public hearing on this ordinance which was held on July 17, 2006.

**NOW, THEREFORE**, the Town Board of the Town of Vienna, Dane County, Wisconsin does ordain as follows:

**IMPACT FEES FOR WATER UTILITY FACILITIES.** (1) **PURPOSE.** The purpose of this section is to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public water utility facilities which are necessary to accommodate land development. This section is intended to assure that new development bears an appropriate share of the cost of capital expenditures necessary to provide public facilities within the Vienna-DeForest joint development area and its service areas as they are required to serve the needs arising out of land development.

(2) **DEFINITIONS.** As used in this section:

(a) "Capital costs" means the capital costs to construct, expand or improve Public Facilities as defined in par. (f), 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 such costs relate directly to the public improvement for which the impact fees imposed actually exceed 10% of the capital costs.

(b) "Developer" means any person or entity who applies for a building permit for purposes of Development as defined in par. (c).

(c) "Development" means any man made change to improved or unimproved real property, any change in the use of any structure or land, or any other activity if such change or other activity

requires or involves a new connection to the DeForest Village Water Utility system or the replacement of an existing water meter with a higher capacity meter.

(d) "Impact Fee" means the fee imposed pursuant to this section.

(e) "Needs Assessment" means the report of the evaluation of the Village's anticipated needs for new and/or expanded public water utility facilities caused by new Development. The report, entitled "Village of DeForest Report on Impact Fees," prepared by Virchow Krause & Co. LLP dated February 15, 2005, is on file in the office of the Town of Vienna Clerk.

(f) "Public facilities" means facilities for the supply and storage of water as identified in the Needs Assessment. Public Facilities shall not include any part of the water distribution system other than the storage and supply facilities for which the Impact Fee under this section is calculated as set forth in the Needs Assessment.

(g) "Village" means the Village of DeForest.

(h) "Town" means the Town of Vienna.

(3) IMPOSITION OF FEES. (a) Impact Fee Imposed. Impact Fees under this section are hereby imposed on all residential and nonresidential Development within the town connecting to the Village's public water system.

(b) Basis for Impact Fee Calculation. The Impact Fees imposed by this section are established based on the impact fee report titled "Village of DeForest, DeForest Wisconsin, Report on Water Impact Fees" prepared by Virchow Krause & Company, LLP dated February 15, 2005. The amount of the Impact Fees established hereby shall be reviewed by the Village Board periodically provided, however, that the fees shall not be increased unless a new needs assessment is prepared which establishes a basis for the increased fees.

(c) Amount of Impact Fees. Impact Fees imposed under this section shall be determined based on the size of each water meter to be installed to serve the Development. In the event an existing water meter is to be replaced with a higher capacity meter, the Impact Fee shall be limited to the amount by which the fee that would be imposed on a new connection with the higher capacity meter exceeds the charge that would apply to the replaced meter. Impact Fees shall be determined as follows:

Meter Size	Impact Fee
5/8" or 3/4"	\$700
1"	\$1,750
1 1/4"	\$2,625
1 1/2"	\$3,500
2"	\$5,600
3"	\$10,500
4"	\$17,500
6"	\$35,000

(4) PAYMENT OF IMPACT FEES. The Town of Vienna shall collect the impact fees and provide the impact fee revenues collected quarterly to the Village of DeForest, minus the town's collection and administrative costs. All required Impact Fees shall be paid in full by the Developer prior to issuance of a building permit for any Development. No building permit shall be issued unless the Impact Fee imposed by this section is paid.

(5) IMPACT FEE REVENUE ADMINISTRATION. (a) Accounting. Revenues from Impact Fees collected pursuant to this section shall be placed in one or more segregated, interest-bearing accounts and shall be accounted for separately from other Village general and utility funds. Impact

Fee revenues and interest earned thereon may be expended only for the capital costs for which the Impact Fees were imposed.

(b) Refunds. Impact Fee revenues imposed and collected but not used within ten (10) years, or within such other period as may be allowed by law, after collection to pay the capital costs for which they were imposed shall be refunded in accordance with Sate Stat: 66.0617 (9) (a), as determined by the Village Board, to the then current record owner or owners of the property with respect to which the Impact Fees were imposed.

(6) USE OF IMPACT FEES. Impact Fees collected under this section 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 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, to reimburse the Village for advances of other funds or reserves, and such other purposes consistent with §66.0617, *Wis. Stats.* as approved by the Village Board.

(7) APPEALS. The payment of an Impact Fee imposed under this section may be contested as to the amount, collection or use of the Impact Fee to the Village Board, provided that the applicant files a written notice of appeal with the Village Clerk within thirty (30) days of the decision being appealed. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the applicant's name, address, telephone number, address (if available) and legal description of the land upon which the Development for which the Impact Fee is imposed is located, and a statement of the nature of and reasons for the appeal. The Village Clerk shall schedule the appeal for consideration by the Village Board at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the applicant of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than ten (10) days before the date of such meeting. Upon review of such appeal, the Village Board may adjust the amount, collection or use of the Impact Fee upon just and reasonable cause shown.

(8) SEVERABILITY. If any section, phrase, sentence, or portion of this section is for any reason determined invalid or unenforceable by any court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provisions, and such determination shall not affect the validity of the remaining portions hereof. If this section, or any provision herein, is determined to be invalid or unenforceable as to any individual property or set of circumstances, such determination shall not affect the applicability thereof to any other property or circumstances.

(9) INTERGOVERNMENTAL AGREEMENT. Notwithstanding the provisions of sub. (4), no payment of any impact fees collected under this Ordinance shall be made to the Village unless the Village shall agree in writing to comply with the provisions of this Ordinance with respect to the accounting, use and refunding of such fees, except to the extent those provisions are modified, or authorized to be modified, by subsequent amendment to §66.0617, *Wis. Stats.*

**Section 2.** This ordinance shall take effect upon its enactment.

Enacted at a regular Vienna Town Board meeting this 17<sup>th</sup> day of July, 2006.

  
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Carlton B Hamre/ Vienna Town Chairperson

Attest:   
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Robert Pulvermacher/ Town Clerk

Date Enacted: July 17, 2006

Vote: Yes 3 NO 0