

## **ORDINANCE NO. 109-005045**

### **AN ORDINANCE ESTABLISHING IMPACT FEES**

#### **SECTION 1 INTRODUCTION**

WHEREAS, the Board of Trustees of the Village of Sister Bay, upon recommendation of the Finance committee conducted a public hearing on May 4, 2005 on the need for impact fees.

NOW, THEREFORE, the Board of Trustees of the Village of Sister Bay, Door County, Wisconsin, do ordain as follows:

#### **SECTION 2.00 INTENT**

This Ordinance is enacted to establish the mechanism for the imposition of impact fees upon development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public facilities which are necessary to accommodate such development. This Ordinance is intended to assure that development bears an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Village of Sister Bay and its service areas as are required to serve the needs arising out of development, as well as to comply with Sec. 66.0617 Wis. Stats. As provided in Sec. 66.0617(2)(b), Wis. Stats., the Village of Sister Bay, by adopting this Ordinance, is not intending to limit its authority to finance public facilities by any other means authorized by law.

#### **SECTION 3.00 AUTHORITY**

This Ordinance is enacted under the authority granted by Section 66.0617(2)(a), of the Wisconsin Statutes.

#### **SECTION 4.00 JURISDICTION**

The jurisdictional area of this Ordinance shall include all lands within the corporate limits of the Village of Sister Bay.

#### **SECTION 5.00 CREATION OF MUNICIPAL CODE PROVISIONS**

The following provisions are hereby created and incorporated into the Municipal Code of the Village of Sister Bay:

##### **SECTION 62.20 ESTABLISHMENT OF IMPACT FEES**

The following fees are impact fees established by the Village pursuant to Sec. 66.0617, Wis. Stats.:

- (a) Impact fees pursuant to Section 62.28 of this Chapter.

##### **SECTION 62.21 DEFINITIONS**

In this Section:

- (a) All words shall have the same meanings as set forth in Sec. 66.0617, subsection (1), Wis. Stats.
- (b) The word "development" shall have the same meaning as the phrase "land development."

##### **SECTION 62.22 DOCUMENTATION**

The following Village documents contain the needs assessments for the impact fees identified under Section 3 above, demonstrate Village compliance with the requirements of Sec. 66.0617(4), Wis. Stats., and shall be kept on file and available for public inspection in the Office of the Village Clerk:

**SECTION 62.23 REVENUES**

Revenues collected by the Village as impact fees shall be placed by the Village Treasurer in segregated interest-bearing accounts, and shall be accounted for separately from other funds of the Village. Impact fee revenues and interest earned on impact fee revenues may be expended by the Village only for the capital costs for which the impact fees were imposed. Separate accounts shall be kept of fees collected from different impact fee zones, where the particular Impact Fee Ordinance provides for differential fees according to zones, and revenues collected in particular zones shall be spent in those zones as appropriate.

**SECTION 62.24 TIME LIMIT FOR EXPENDITURES**

(a) The Village determines the following lengths of time appropriate for the planning, financing, acquisition and construction of the public facilities listed below:

From January 2003 through December 31, 2005.

(b) Maximum Time to Use Impact Fees Collected From the Time of Fee Collection:

Type of Facility: Wastewater Treatment Plant expansion May 2025

(c) Fees held by the Village under Section 62.23 above, and not used within the time period specified herein, shall be refunded to the persons who are the owners of record, at the expiration of such time period, of the property with respect to which the impact fees were imposed.

**SECTION 62.25 PAYMENT OF IMPACT FEES**

All required impact fees, unless expressly excepted in a section of this Chapter, shall be paid before a building permit may be issued for the construction for which the impact fee is to be imposed. With respect to any development affected by any impact fee imposed under this Chapter which is under construction at the time the ordinance imposing such impact fee becomes effective or which has received a building permit at such time, all required impact fees shall be paid before a certificate of occupancy may be issued for such development. Impact fee payments shall be assumed to be the responsibility of the owner of record at the time the building permit is requested.

**SECTION 62.26 INSTALLMENT PAYMENTS**

The Village Board, by resolution, may authorize the payment of impact fees, otherwise payable in full, in installment payments. If installment payments are authorized, interest shall be paid on the installment payments at the same rate then charged by the Village on installments of special assessments.

**SECTION 62.27 APPEALS**

A developer may appeal to contest the amount, collection or use of the impact fee in the manner provided herein:

(a) It shall be a condition to the commencement of such an appeal that the impact fee from which the developer appeals shall be paid as and when the fee or any permitted installment thereof becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.

(b) The only questions appealable under this section are the following, as authorized by Sec. 66.0617(10), Wis. Stats.:

(1) The amount of fee charged and paid by the developer;

- (2) The method of collection of the impact fee;
  - (3) The use to which the particular fee paid by the developer is made by the Village.
- (c) Appeals must be brought within 30 days of the earlier of:
- (1) The date the impact fee is payable hereunder;
  - (2) In a situation where installment payments are allowed, the due date of the first required installment.
- (d) The appellant shall pay a filing fee of \$300 at the time of filing of the appeal. The notice of appeal shall be filed with the Village Clerk.
- (e) Following the filing of the notice of appeal, the Village Clerk shall compile a record of the ordinance imposing the impact fee that is the subject of the appeal and a record of the management and expenditure of the proceeds of the impact fee, and shall transmit these documents to the Village Board. In consultation with the Village departments, the Village Clerk shall also compile a report on each appeal in which the appellant is seeking a reduction or total refund in the impact fee paid. This report shall specify the fiscal impact on the Village of Sister Bay if the appeal overturns the impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by development on the appellant's property, the report shall estimate whether it will be necessary for the Village to adjust impact fees, or amend existing ordinances, to recover the proposed revenue shortfall.
- (f) The Village 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 fee from which the appeal has been taken. Following the close of the public hearing, the Village Board shall deliberate upon the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal.
- (g) If the Village 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 Village thereon, or 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 62.28 IMPACT FEE**

The Wastewater Treatment Plant expansion impact fee for every residential meter equivalent is \$653.00.

**SECTION 6.00 SEVERABILITY**

If any section or part of this Ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. All other ordinances or parts of ordinances of the Village inconsistent with this Ordinance to the extent of the inconsistency only are hereby repealed.

**SECTION 7.00 EFFECTIVE DATE**

This Ordinance shall be effective after adoption by the Board of Trustees and publication or posting as provided by law.

Dated this \_\_\_\_ day of \_\_\_\_\_. 2005

Village of Sister Bay

By: \_\_\_\_\_  
Denise L. Bhirdo, President

Attest:

\_\_\_\_\_  
Christine M. Sully, Clerk/Treasurer

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Created: 5/4/2005 9:51 AM Date Printed: 5/6/2005 11:15:00 AM