

CHAPTER 21
TOWN PARKS

- 21.01 Use of Town of Delavan Parks
- 21.02 Conflict and Severability
- 21.03 Penalties
- 21.04 Park Impact Fees

21.01 USE OF TOWN OF DELAVAN PARKS

- 1) No person shall be permitted to be in or upon the Town of Delavan Parks, hereinafter parks, between the hours of 9:00 p.m. and 8:00 a.m. except as otherwise provided herein.
 - (a) The boat launch area is hereby exempted from subsection 1) above.
 - (b) Persons who, by reason of a special permit, are located on park premises; said permit to be authorized by the Town Board or Park and Tourism Committee.

- 2) Dogs, cats or other animals shall not be permitted upon the premises of the parks at any time, except as follows:
 - (a) A service dog or other animal used to assist an individual.
 - (b) A dog, cat or other animal within a motor vehicle, with the consent of the owner or operator of said vehicle.
 - (c) Dogs on a visible leash no longer than seven (7) feet in length may be allowed in the Community Park from sunrise to sunset each day the Community Park is open to the public except when posted as "closed to dogs" for special events authorized by the Town.
 - i. Any dog owner/walker shall immediately pick up and properly dispose of all solid dog waste from his or her dog.
 - ii. No dog shall be allowed in the Community Park unless the dog has been properly vaccinated and licensed; is wearing a collar or harness; is wearing rabies and license tags; is not aggressive; and is not in heat.
 - iii. If any employee or agent of the Town has reason to believe that a dog owner/walker is violating the provisions of this section, such employee or agent may direct the dog owner/walker to immediately remove his or her dog from the Community Park and the failure of a dog owner/walker to comply with such direction shall constitute a separate violation of the provisions of this section.
 - iv. Any person who shall violate any provision of this section shall be subject to a penalty as provided in Sec. 25.04 of the Municipal Code.

- 3) No person upon the premises of the parks shall possess or have under his or her control any glass container or bottle, unless said container or bottle is within a motor vehicle.
- 4) No person shall operate, stop, stand or park any motor vehicle

within the public parks upon the grass area or upon any area not designated for motor vehicle travel, unless the same is done by permit issued by the Town Board or Town Park Commission.

- 5) No person shall dock or moor or cause to be docked or moored any boat on any pier owned by the Town of Delavan unless the same is with the knowledge and consent of the Town of Delavan Police Department or an official designee there from.

6) FEEDING OF WATERFOWL

- (a) **WATERFOWL** means wild geese, brant, wild ducks, rails, coots, gallinules, jacksnipe, woodcock, plovers, sandpipers and wild swan.
- (b) **PROHIBITED.** No person shall feed or participate in feeding any waterfowl in any Town park at any time.

7) FEES FOR USE OF FACILITIES

- (a) The Town Board Shall prescribe by resolution a fee schedule for Town park facilities, boat launch fees, and all other matters pertaining to the use of Town of Delavan facilities for which a fee is charged.

8) PENALTIES FOR NON PAYMENT OF PRESCRIBED FEES

- (a) Any person or entity who shall enter upon a Town of Delavan Park without paying the prescribed fees for the use therefore, park their vehicles without paying the prescribed fee therefore, launch their boat without paying the prescribed fee therefore, park their vehicles without paying the prescribed fee therefore, launch their boat without paying the prescribed fee therefore, or engage in other activities for which a fee is charged on a Town of Delavan facility and knowingly failed to pay the fee prescribed for the use thereof, shall be subject to the penalties set forth in Section 25.04 of the Town of Delavan Municipal Code.
- (b) Any person or entity who, having previously obtained an annual or daily Town of Delavan boat launch permit, parks his or her vehicle anyplace in the Town Park after launching his or her boat, without properly displaying the annual launch permit upon his or her trailer, or the daily launch permit readily visible through the windshield of his or her vehicle, shall be subject to the penalties set forth in section 25.04 of the Town of Delavan Municipal Code.

9) SEVERABILITY

- (a) Each section, subsection, paragraph sentence, clause, phrase, and provision of the foregoing Ordinance is and the same as hereby declared to be determined to be invalid for any reason, such determination shall not invalidate any other portion or provision thereof

Established April 17, 2001, revised 6.17.2008 Ordinance No. 287, 288, 11.16.2010 Ordinance 312

21.02 CONFLICT AND SEVERABILITY

1) CONFLICT OF PROVISIONS

- (a) If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

2) SEVERABILITY OF CODE PROVISIONS

- (a) If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

Established April 17, 2001, Ordinance No. 229

21.03 PENALTIES

- 1) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Sec. 25.04 of this Municipal Code.

Established April 17, 2001, Ordinance No. 229

21.04 PARK IMPACT FEES

1) DEFINITIONS

- (a) **CAPITAL COST**
 - i. **"Capital Costs"** means the capital costs to construct, expand, or improve public facilities,

except that not more than ten (10%) percent of capital costs may consist of legal, engineering, and design costs unless the municipality can demonstrate that its legal, engineering, and design costs which relate directly to the public improvement for which the impact fees were imposed exceed ten (10%) percent of capital costs. "Capital costs" does not include other noncapital costs to construct, expand, or improve public facilities: vehicles; or the costs of equipment to construct, expand, or improve public facilities.

2) DEVELOPER

- (a) **"DEVELOPER"** means a person that constructs or causes the construction or modification of improvements to real property that create additional residential dwelling units within a municipality or that results in non-residential uses that create a need for new, expanded, or improved public facilities within a municipality.

3) IMPACT FEES

- (a) **"IMPACT FEES"** means cash contributions, contributions of land or interests in land, or any other items of value that are imposed on a developer by a municipality under this Section.

4) LAND DEVELOPMENT

- (a) **"LAND DEVELOPMENT"** means construction or modification of improvements to real property that creates additional residential dwelling units within a municipality or that results in nonresidential uses that create a need for new, expanded, or improved public facilities within a municipality.

5) MUNICIPALITY

- (a) **"MUNICIPALITY"** means the Town of Delavan.

6) PUBLIC FACILITIES

- (a) **"PUBLIC FACILITIES"** means parks, playgrounds, and land for athletic fields. "Public facilities" does not include facilities owned by a school district.

7) SERVICE AREA

- (a) "**SERVICE AREA**" means a geographic area delineated by a municipality within which there are public facilities.

8) SERVICE STANDARD

- (a) "**SERVICE STANDARD**" means 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 municipality.

9) AMOUNT OF IMPACT FEES

- (a) The amount of impact fees to be collected for each residential dwelling unit created after the effective date of this Ordinance shall be one-thousand (\$1,000) dollars.

(b) **DETERMINATION**

- i. Impact fee amounts shall be determined from time to time and shall be based upon a detailed estimate of the capital costs of providing new public facilities or the improvement or expansion of existing public facilities which will be required because of land development, in accordance with Section 66.0617 of the Wis. Stats. Such determination shall include an estimate of the effect of the impact fees on the availability of affordable housing within the Town. The full amount of the impact fee shall be determined based upon the number of residential dwelling units created.

- (c) Guidelines and Criteria for the Impact Fees Imposed by fees imposed by this Ordinance:

- i. Shall bear a rational relationship to the need for new, expanded, or improved public facilities that are required to serve land development.
- ii. 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 municipality.

- iii. Shall be based upon actual capital costs for new, expanded, or improved public facilities.
- iv. Shall be reduced to compensate for other capital costs or reasonable estimates of capital costs imposed by the municipality 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 dedication under Chapter 236 of the Wisconsin Statutes, or any other items of value.
- v. Shall be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.
- vi. May not include amounts necessary to address existing deficiencies in public facilities.

10) PAYMENT OF FEES

- (a) The fees imposed by this Ordinance shall be paid in full by the property owner to the Town Treasurer (or other Town Board authorized agent) at the time of the issuance of a Building Permit by the Town of Delavan. No Occupancy permit shall be issued with respect to any structure or improvement subject to the provisions of this Ordinance until all required impact fees have been paid.

11) SEGREGATION OF IMPACT FEES

- (a) Impact fees shall be placed in segregated, interest bearing accounts as follows:

12) REVENUES FOR IMPACT FEES COLLECTED

- (a) Revenues from Impact Fees Collected to be placed in Segregated, Interest-Bearing Accounts. Revenues from impact fees collected pursuant to this Ordinance shall be placed in segregated interest-bearing accounts and shall be accounted for separately from other funds of the Town of Delavan.

13) EXPENDITURE OF IMPACT FEE REVENUES

- (a) All revenues collected and interest earned on impact fee revenues may be expended only for capital costs for which the impact fee was imposed unless the Impact fee is refunded under the provisions of Section 66.0617(9) of the Wisconsin Statutes.

14) DISPOSITION OF PRIOR COLLECTED FUNDS

- (a) All funds collected and held by the Town as "Park Fees" which were collected prior to the enactment of an Impact Fee Ordinance under the provisions of Section 66.0617 of the Wis. Statutes, shall be allocated for public park use as determined by the Town of Delavan Town Board.

15) TIME LIMITATION ON THE USE OF THE IMPACT FEES COLLECTED

- (a) Impact fees imposed and collected under this Ordinance but not spent for the acquisition, development, or improvement of the specified public facilities shall be refunded to the current owners of the property pursuant to the requirements set forth under the provisions of Section 66.0617(9) of the Wisconsin State Statutes.

i. EXEMPTIONS

1. Any land development for which impact fees for parks, playgrounds, or land for athletic fields have been paid prior to June 16, 2009 pursuant to the provisions and requirements of the Municipal Code of the Town of Delavan, or other Town of Delavan Ordinance, as said Municipal Code or other Town of Delavan Ordinance existed prior to June 16, 2009, shall be exempt from the impact fees imposed under this Ordinance.

16) FEE INCREASES

- (a) The impact fees imposed in this Ordinance may be adjusted each year by the percentage equal to that of the rate of consumer inflation based upon the percent of change of the yearly Consumer Price Index for the previous year for Walworth County as reported by the U.S. Department of Labor, Bureau of Labor Statistics.

The Town Treasurer (or other Town Board authorized agent), shall determine such adjustment and maintain a copy of the said Consumer Price index upon which such adjustment was made in the office of the Town Treasurer.

17) ADMINISTRATION

(a) All fees collected and special accounts maintained under this Ordinance shall be subject to administration by the Town Treasurer.

(b) **REPORT REQUIRED**

i. Commencing with the calendar year subsequent to the effective date of this Ordinance, the Town Treasurer shall report annually to the Town Board with regard to all deposits, withdrawals, and fund balances in regard to impact fees. The purpose of the annual report is to provide the town Board with information necessary to determine that all funds collected are spent within a reasonable amount of time pursuant to this Ordinance, for the purposes intended, and that the amount of the fees imposed continues to represent an equitable and reasonable apportionment of the cost of public facilities nor land development.

(c) **REFUNDS**

i. Subject to the provisions of this Ordinance, impact fees that are imposed and collected by the Town of Delavan but are not used within seven (7) years after they are collected to pay the capital costs for which they were imposed shall be refunded by the Town Treasurer (or other Town Board authorized agent) to the current owner of the property with respect to which the impact fees were imposed, along with any interest allocable to such impact fee.

ii. The seven (7) year time limit for using impact fees may be extended by resolution of the Town Board pursuant to Section 66.0617(9), Wisconsin State Statutes.

18) APPEALS

(a) Any developer who disputes the amount, collection, or use of the impact fees provided for herein shall have the right to appeal to the Town Board and the procedure for such appeal shall be as follows:

(b) **APPEAL INITIATION AND "APPEAL APPLICATION FEE"**

i. An appeal shall be initiated by filing a written notice of appeal with the Town Treasurer (or other Town Board authorized agent) accompanied by an "Appeal Application Fee" in the amount of two hundred fifty (250) dollars.

(c) **CONTENT OF WRITTEN NOTICE OF APPEAL**

i. The written notice of appeal shall include the name, address, and telephone number of the property owner, the legal description of the land development for which the impact fee is imposed and the appeal is requested, the number of residential dwelling units being created, the amount and nature of the impact fee imposed, and the specific objections to the amount of the impact fee, collection of the impact fee, or the use of the impact fee.

(d) **HEARING THE APPEAL**

i. Upon receipt of the written notice of appeal and "Appeal Application Fee," the Town Treasurer (or other Town Board authorized agent) shall schedule a special meeting of the Town Board for the special purpose of hearing the appeal. Such special meeting shall be scheduled not more than thirty (30) days from the date of the receipt of the written notice of appeal unless a later date for the hearing is agreed to by the property owner in writing.

(e) **CONDUCT OF THE APPEAL PROCEEDINGS**

i. The property owner may present such oral and documentary evidence as the property owner may desire at the hearing and the Town Board may receive such other evidence relevant to the challenged fee as it deems necessary or prudent in the exercise of its discretion. All proceedings shall be electronically recorded or taken by a court reporter, at the option of the party appealing the

impact fee. If a court reporter is requested, the appealing party shall pay the costs thereof.

(f) **TOWN BOARD DETERMINATION**

- i. The Town Board shall make its determination based upon the evidence presented and shall issue its decision in writing within twenty (20) days of the hearing.

19) CERTIFICATE OF THE WALWORTH COUNTY CIRCUIT COURT

- (a) The decision of the Town Board may be certified to the Walworth Circuit Court as a special writ for judicial review.

20) REPEAL

- (a) All ordinances or parts of ordinances in contravention to this Ordinance are hereby repealed.

21) SEVERABILITY

- (a) Each section, subsection, paragraph, sentence, clause, phrase, and provision of the foregoing Ordinance is and the same as hereby declared to be severable and if any portion or provision thereof is duly determined to be invalid for any reason, such determination shall not invalidate any other portion or provision thereof.