

# Chapter 80

## Impact Fees

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**[HISTORY: Adopted by the Town Board of the Town of New Glarus 5-6-2008; amended in its entirety 9-13-2011. Amended February 14, 2024. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Building construction — See Ch. 15.

Land division and subdivision — See Ch.

110. Extraterritorial zoning — See Ch. 50.

#### § 80-1 Purpose and intent.

- A. Whenever a tract of land is created by a subdivision or recording of a certified survey map, there is imposed an impact fee for the purpose of defraying the cost of identified capital costs that are necessary to accommodate the new land development. Each such impact fee shall be adopted using the procedures of this chapter. Impact fees shall be due and payable in full upon the issuance of a building permit by the Town or, if applicable to commercial property, by the state. The Town shall require the land developer to include provisions securing payment of impact fees in the developer's agreement between the Town and the developer.
- B. This chapter is intended to impose impact fees in order to finance public utilities and facilities, the demand for which is generated by new development. The Town is responsible for and will meet, through the use of general Town revenues, all capital improvement needs associated with existing development. Only needs created by new development will be met by impact fees. Impact fees shall be spent on new or enlarged capital facilities improvements required by new developments that pay the fees.

#### § 80-2 Authority.

Authority for this chapter is provided by Wis. Stat § 66.0617. The provisions of this chapter shall not be construed to limit the power of the Town to adopt any ordinance, other impact fee or other fee pursuant to any other source of local authority or to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in lieu of or in conjunction with this chapter.

### **§ 80-3 Applicability.**

This section shall be uniformly applicable to all new development that occurs within the Town of New Glarus.

### **§ 80-4 Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

#### **ABANDONED**

A residential structure shall be determined abandoned if, at the time of the Impact Fee Ordinance adoption (February 14, 2024), three of the following pertain as determined by the Town Building Inspector, Plan Commission or Town Board:

- A. There is no evidence of human activity at the structure.
- B. If the structure has not been properly maintained and fallen into disrepair (e.g., the roof has collapsed or attachments are falling down, windows are broken, or doors are falling off and unattached).
- C. Unlicensed wild animal activity is present within the house.
- D. The structure does not have an address or fire number.
- E. The yard landscape is unkempt (not mowed or no evidence of human travels).

#### **BUILDING PERMIT**

The permit required for new construction and additions pursuant to Town of New Glarus Code. The term "building permit," as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in the number of dwelling units resulting therefrom.

#### **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 demonstrated 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" does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.

#### **CAPITAL IMPROVEMENTS**

Public facilities that are treated as capitalized expenses according to generally accepted accounting principles and does not include costs associated with the operation, administration, maintenance or replacement of capital improvements, nor does it include administrative facilities.

#### **DEVELOPER**

A person, party, firm, corporation or other legal entity that constructs or creates a land development.

#### **DEVELOPMENT**

Any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit.

#### **DWELLING UNIT**

Each separate living unit authorized to be constructed on the parcel of land. For example, a single-

family residence shall be considered one dwelling unit; a duplex shall be considered two dwelling units; a four-family apartment building shall be considered four dwelling units, etc.

### **HABITABLE**

A residential structure shall be determined habitable if, at the time of the Impact Fee Ordinance adoption (February 14, 2024), three of the following pertain as determined by the Town Building Inspector, Plan Commission or Town Board:

- A. Mechanical and electrical services are connected and usable.
- B. The structure has an assigned fire number or mailing address.
- C. There is a legal access for emergency vehicles, consistent with the requirements of Town Code Chapters **36** and **75**.
- D. The asset value (of the structure or entire parcel) exceeds \$10,000.
- E. If under construction, the roof, doors, windows and walls are substantially complete as determined by the Building Inspector.
- F. An occupancy permit was issued by the Town prior to May 6, 2008.

### **IMPACT FEE**

Any charge, fee, or assessment levied pursuant to this chapter when any portion of the revenues collected is intended to fund any portion of the capital costs of public facilities or capital improvements identified in this chapter and/or the public facilities needs assessment.

### **LAND DEVELOPMENT**

The construction or modification of improvements to real property that creates additional residential dwelling units within the Town or that result in nonresidential uses that create a need for new, expanded or improved public facilities within the Town.

### **MANUFACTURED HOME**

A living space that is transportable in one or more sections and is designed to be used with a permanent foundation and connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle" which is subject to impact fees when connected.

### **MOBILE HOME**

A living space that is transportable in one section, is built on a mobile, permanent chassis, and is designed to be used without a foundation. It may be temporarily connected to utilities.

### **NEEDS ASSESSMENT**

The assessment of needs required to identify public facility costs for the purpose of calculating impact fees as defined by Wis. Stat. § 66.0617.

### **PUBLIC FACILITIES**

Parks and playgrounds, as defined in § 340.01(22), Wisconsin Statutes. "Public facilities" does not include facilities owned by a school district.

### **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 Board.

**SITE**

The land on which development takes place.

**SUBDIVISION**

A plat, certified survey map, or other method used to divide a parcel of property into two or more separate parcels or lots.

**TOWN**

The Town of New Glarus, Wisconsin.

**TRAILER or OTHER TEMPORARY STRUCTURES**

Places of abode that are designed to be portable (on wheels).

**§ 80-5 Public facilities Needs Assessment.**

The basis for the imposition of impacts fees is the public facilities needs assessment prepared by Vierbicher Associates in November of 2023, which is on file in the office of the Town Clerk and available for inspection and/or copying in accordance with the State Public Records and Property Law, Subchapter II of Chapter 19, Wisconsin Statutes. The public facilities needs assessment includes:

- A. An inventory of existing public facilities, including an identification of any existing deficiencies in the quantity or quality of those public facilities for which an impact fee is imposed.
- B. 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 an impact fee is imposed.
- C. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities, including an estimate of the effect of recovering these capital costs through impact fees on the availability of affordable housing within the Town.
- D. A public facilities needs assessment or revised public facilities needs that are prepared under this section shall be available for public inspection and copying in the office of the Town Clerk at least 20 days before the hearing under § 80-6.

**§ 80-6 Public hearing; notice.**

Before enacting an ordinance that imposes impact fees, or amending an existing ordinance that imposes impact fees, the Town shall hold a public hearing on the proposed ordinance or amendment. Notice of the public hearing shall be published as a Class 1 notice under Ch. 985, Wis. Stats., and shall specify where a copy of the proposed ordinance or amendment and the public facilities needs assessment may be obtained.

**§ 80-7 Finding of reasonableness and statutory compliance.**

Impact fees imposed by this chapter are found by the Town Board to be reasonable and in compliance with § 66.0617, Wisconsin Statutes, in that they:

- A. Bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
- B. Do 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. Are based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
- D. Are to 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, Wisconsin Statutes, or any other items of value.

- E. Are to 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. Do not include amounts necessary to address existing deficiencies in public facilities.
- G. Shall be payable by the developer or the property owner to the Town in full at the time of the issuance of a building permit by the Town or, if applicable, by the state.
- H. An impact fee adopted by the Town under this chapter may provide for an exemption from, or a reduction in the amount of, impact fees on land development that provides low-cost housing, except that no amount of an impact fee for which an exemption or reduction is provided under this subsection may be shifted to any other development in the land development in which the low-cost housing is located or to any other land development in the Town.
- I. Do not prohibit or deter the construction of affordable housing within the Town.

**§ 80-8 Imposition of impact fees.**

Impact fees shall be imposed by the Town Board on any land division, planned development, conditional use permit, site plan review or building permit for new construction on vacant land, the construction of additional residential buildings on developed land, and the expansion of existing buildings, at the time any approval or permit is granted that results in an increase in the number of dwelling units which are located in an area on which an impact fee has been imposed. Notwithstanding the above, nothing herein required shall provide for the payment of duplicate impact fees under circumstances where a land development is the subject of more than one approval or permit.

- A. When replacement of existing structure(s) is (are) proposed, impact fees shall be imposed as follows:
  - (1) When a permanent structure is being replaced or improved:
    - (a) Impact fees will be collected if an existing permanent structure was, at the date of the adoption of the impact fee ordinance, abandoned or not habitable as defined by this chapter.
    - (b) Impact fees will not be collected if an existing structure, at the date of the adoption of the impact fee ordinance, was not abandoned and/or is habitable.
  - (2) When a temporary residence is being replaced or improved, impact fees will not be collected if an existing trailer or temporary structure, which has been connected to sewer, water, and electrical and was occupied and legal, is being replaced by a permanent home.
- B. When "temporary" structures are proposed, impact fees shall be imposed as follows:
  - (1) Impact fees will not be collected for trailers or temporary habitable structures to be occupied for less than six months of each calendar year if the structure has no foundation and no permanent connection to electrical, sewer and water services.
  - (2) Impact fees will be collected for a mobile home (not a replacement of a previous dwelling) if it sits on a concrete foundation and has connections to electrical, water, and sewer services.
- C. Exemption. The following situations shall be exempt from payment of impact fees:
  - (1) The replacement of a building or structure with a new building or structure of the same size and use where no additional dwelling units are added:

- (2) Additions onto existing buildings or structures, accessory buildings to an existing dwelling;
- (3) Demolition of residential units or non-residential building square footage without replacement does not prompt refund of previously paid fees.

**§ 80-9 Use of funds.**

- A. 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 land 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 the projects, to reimburse the Town for advances of other funds or reserves, and such other purposes consistent with § 66.0617, Wis. Stats., which are recorded and approved by the Town Board.
- B. The Town may issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law in furtherance of the provision of capital improvement projects. Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for such projects may include impact fees and other Town revenues as may be allowed by the Town Board. Impact fees paid pursuant to this chapter, however, shall be restricted to use solely and exclusively for financing directly or as a pledge against bonds, revenue certificates, and other obligations of indebtedness for the cost of capital improvements as specified herein.
- C. These impact fees shall be collected until the capital costs associated with the projects specified in the Needs Assessment Report, as amended from time to time, have been incurred and satisfied unless such time period exceeds 8 years beyond projected satisfaction of indebtedness of the specified projects for which these impact fees are imposed. As provided by § 66.0617(9), Wis. Stats., or its legal revision repayment requirement may be extended provided the Town adopts a resolution detailing extenuating circumstances or hardships which prevented them from meeting the current time limit.

**§ 80-10 Payment and collection of fees.**

- A. Payment of fee. A developer, land owner, or building permit applicant shall pay in full an impact fee for any new development (as distinguished from any alteration or addition to existing development) in full, to the Town Clerk/Treasurer upon issuance of a building permit. The required impact fees shall be paid in full by separate checks.
- B. Separate fund account required. Revenues collected as impact fees shall be placed by the Town of New Glarus Clerk/Treasurer in segregated interest-bearing accounts and shall be accounted for separately from other funds of the Town of New Glarus. Impact fee revenues and interest earned on impact fee revenues may be expended by the Town of New Glarus only for the capital costs for which the impact fees were imposed and shall be expended on a first-in first-out basis.
- C. Refund. Any funds not expended or encumbered by the end of the calendar quarter immediately following 8 years or its legal revision, from the date the impact fee was paid for any facility described in the needs assessment shall be returned to such landowner within 120 days or as revised statutorily. As provided by § 66.0617(9), Wis. Stats., the usage requirement may be extended for three (3) years provided the Town adopts a resolution detailing extenuating circumstances or hardships which prevented them from meeting the current time limit. For purposes of the time limits in this subsection, an impact fee is paid on the date a developer obtains a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality.

**§ 80-11 Administration of impact fees.**

- A. Upon receipt of impact fees, the Town Clerk/Treasurer shall be responsible for the placement of such funds into separate accounts as hereinafter specified. All such funds shall be deposited in interest-

bearing accounts in a bank authorized to receive deposits of Town funds, as applicable. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.

- B. The Town Clerk/Treasurer shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; that shall account for all monies received; that shall ensure that the disbursement of funds from each account shall be used for projects in the capital improvements program for the particular development subarea or for Town-wide capital improvements, as specified in the program; and that shall provide an annual report for each impact fee account showing the source and amount of all funds collected and the projects that were funded.
- C. Review of development potential.
  - (1) The Town shall annually, in conjunction with the annual capital budget and capital improvements plan adoption processes, review the development potential of the Town and the capital improvements plan and make such modifications as are deemed necessary as a result of:
    - (a) Development occurring in the prior year.
    - (b) Capital improvements actually constructed.
    - (c) Changing facility needs.
    - (d) Inflation.
    - (e) Revised cost estimates for capital improvements.
    - (f) Changes in the availability of other funding sources applicable to public facility projects.
    - (g) Such other factors as may be relevant.
  - (2) Modifications of the development potential, the capital improvements program, and the impact fees shall be recommended for adoption prior to November 1 of each year and shall be effective on January 1.

**§ 80-12 Impact Fee Schedule.**

See Chapter 55, Addendum A, of the Town of New Glarus Code.

**§ 80-13 Time for use of impact fees.**

Impact fees shall be expended within the following time limits:

- A. Impact fees collected after February 14, 2024, and collected within 8 years of the date of the ordinance establishing the specific impact fee shall be expended within 8 years of the effected date of the impact fee imposition ordinance. The eight-year deadline may be extended for as much as three additional years by the Town Board if the Board finds that, as the result of hardship or extenuating circumstances, it is impossible to expend the impact fees for the purpose for which they were imposed within the eight-year period. Impact fees not used within the time limit of this subsection shall be refunded pursuant to § 80-10C of this chapter.
- B. Impact fees collected after February 14, 2024, which are collected more than 8 years after the effective date of the impact fee imposition ordinance shall be used within a reasonable period of time, or refunded pursuant to this chapter. To determine a reasonable time period, the Town shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

#### **§ 80-14 Appeals.**

- A. Notice of appeal. Any developer and/or land owner upon whom an impact fee has been imposed may contest the amount, collection or use of the impact fee by filing a notice of appeal to the Town Board. The notice of appeal shall be filed with the Town Clerk/Treasurer within 30 days of the date of the determination appealed from. The notice of appeal shall state in detail the relief sought by the developer and any legal or factual basis for the relief requested; and shall include all supporting documentation upon which the developer relies in making the appeal.
- B. Appeal bond. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the Town attorney in an amount equal to the impact fee due, as calculated by the Town Clerk or the Clerk's designee, and all other requirements have been satisfied, the building permit may be issued or the final plan may be approved. The filing of an appeal shall not stay the collection of the impact fee due unless a bond or other sufficient surety has been filed.
- C. Review by the Town Board.
  - (1) Within 30 business days of the date of filing of the notice of appeal, the Town Clerk/Treasurer shall place the matter on the agenda for the Town Board meeting. The Town Board shall consider the appeal and shall, at the Town Board's exclusive discretion, approve or deny the appeal.
  - (2) At any hearing on an appeal of an impact fee, the appellant shall be permitted to present competent evidence or testimony. The Town Board may limit the presentation of evidence to a reasonable amount of time considering the complexity of the issues involved, and may exclude proposed evidence on the grounds of relevance, duplication and reliability. The Town's Attorney, Engineer and other consultants or witnesses shall be heard in response, and the appellant permitted to present rebuttal.

#### **§ 80-15 Effect of impact fee on zoning and subdivision regulations.**

This chapter shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the zoning and subdivision regulations or other regulations of the county or Extraterritorial Zoning Ordinance if applicable which shall be operative and remain in full force and effect without limitation with respect to all such development.

#### **§ 80-16 Impact fee as additional and supplemental requirement.**

The impact fees are additional and supplemental to, and not in substitution of, any other requirements imposed by the Town on the development of land or the issuance of building permits. It is intended to be consistent with and to further the objectives and policies of the Comprehensive Plan, the capital improvements plan, and other Town policies, chapters, and resolutions by which the Town seeks to ensure the provision of public facilities in conjunction with the development of land. In no event shall a property owner or developer be obligated to pay for capital improvements in an amount in excess of the amount calculated pursuant to this section; provided, however, that a property owner or developer may be required to pay, pursuant to Town ordinances, regulations, or policies, other fees or for other capital improvements in addition to the impact fees for capital improvements as specified in this chapter.

#### **§ 80-17 Amendments.**

- A. Before enacting an ordinance that amends Chapter **80**, the Town Board shall hold a public hearing on the proposed ordinance or amendment.
- B. Pursuant to § 66.0617, Wis. Stats., notice of the public hearing referred to in the preceding section shall be published as a Class 1 notice under Ch. 985, Wis. Stats., and shall specify where a copy of the proposed ordinance or amendment and the public needs assessment may be obtained.
- C. Before enacting an ordinance that imposes impact fees or amending an ordinance that imposes impact



fees by revising the amount of the fee or altering the public facilities for which impact fees may be imposed, a needs assessment shall be prepared and made available for public inspection and copying as required by § 66.0617, Wis. Stats.

**§ 80-18 Liberal construction; severability.**

The provisions of this section are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience and it shall be liberally construed to effectively carry out its purposes. If any subsection, phrase, sentence, or other portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent, and such holding shall not affect the validity of the remaining portions thereof.