

VILLAGE OF CROSS PLAINS

ORDINANCE NO. 2021-05

AN ORDINANCE TO CREATE SECTION 7.08 OF THE VILLAGE OF CROSS PLAINS
CODE OF ORDINANCES CREATING A PUBLIC WATER IMPACT FEE

The Village Board of the Village of Cross Plains, Dane County, Wisconsin does hereby ordain as follows:

1. Section 7.08, Public Water Impact Fees, is hereby created to now read as follows:

SECTION 7.08 Public Water Impact Fees.

- (a) **Intent.** This chapter 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 water facilities which are necessary to accommodate such development. This section is intended to assure that new development bears an appropriate share of the cost of capital expenditures necessary to provide such public facilities within the Village of Cross Plains and its service areas as are required to serve the needs arising out of development, as well as to comply with §66.0617, Wis. Stats (as amended from time to time). As provided in §66.0617(2)(b), Wis. Stats., the Village of Cross Plains, by adopting this section, is not intending to limit its authority to finance public facilities by any other means authorized by law, including, without limitation because of enumeration herein, the means authorized by §236.13(2) and (2m), Wis. Stats., and Chapter 83, Land Division and Subdivision, of this Code, and any other statutes or ordinances.
- (b) **Definitions.** In this Chapter:
 - (1) All words shall have the same meanings as set forth in §66.0617(1), Wis. Stats.
 - (2) The word “development” shall have the same meaning as the phrase “land development.”
 - (3) “Residential equivalent unit (REU)” means a unit of measure for impact fees equivalent to one residential dwelling unit. For purposes of calculating the public water impact fee, one REU is considered equal to the basic residential meter size of 5/8 inch or 3/4 inch.
- (c) **Fees Established.** The following fees are impact fees established by the Village pursuant to §66.0617, Wis. Stats.:
 - (1) Public water impact fees pursuant to (j) of this chapter.
- (d) **Documentation.** The following Village documents contain the needs assessments for the impact fees identified under (c) above, demonstrate Village compliance with the requirements of §66.0617(3), Wis. Stats., and shall be kept on file and available for public inspection in the office of the Village Clerk:

- (1) Public Facilities Needs Assessment for Municipal Water System prepared by Town & Country Engineering, Inc. approved by the Village Board on April 26, 2021; and
 - (2) Water System Impact Fee Study prepared by Town & Country Engineering, Inc., approved by the Village Board on April 26, 2021.
- (e) **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.
- (f) **Time Limit for Expenditures.**
- (1) The Village determines the following lengths of time appropriate for the planning, financing, acquisition and construction of the public facilities listed below:

Type of Facility: Public Water Facilities	Maximum time to use impact fees collected from the time of fee collected
New water reservoir	8 years
New water main	8 years
New well	8 years

- (2) Fees held by the Village under (e) 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.
- (g) **Payment.** All required impact fees, unless expressly excepted in paragraph (h) of this section, 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 under Chapter 84, Zoning Regulations, 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.
- (1) With respect to the public water impact fee, the above requirement of payment before a building or occupancy permit may be issued shall apply, and also the following shall apply:
 - a. With respect to any development in the area affected by the public water impact fee where construction has commenced at the time this section becomes effective but which has not yet been connected to the public water system, the impact fee is imposed and payment

- thereof shall be required before any building included in such development will be allowed to connect to the public water system.
- b. With respect to any development in the area affected by the public water impact fee, as to which development the developer has agreed to imposition of impact fees, the impact fee is imposed and payment thereof shall be required as follows: If, at the time this chapter becomes effective, no building permit has been issued, payment of the fee shall be required before a building permit may be issued. If, at the time this chapter becomes effective, a building permit has been issued, payment of the impact fee shall be required before any building included in such development will be allowed to connect to the public water system. If, at the time this chapter becomes effective, a building permit has been issued and the development has been connected to the public water system, payment of the impact fee shall become due when the property owner is billed for the impact fee. In the last described situation, if payment of the fee is not made within 30 days following billing by the Village, public water service may be disconnected by the Village and such service discontinued until payment of the impact fee has been made.
 - c. Development will be considered to be “connected” to the public water system for purposes of this section at such point in time as a permanent connection has been made to said system and the Village has allowed the development to begin receiving water from the system.
 - d. With respect to a larger meter fee as imposed in section 7.08(j)(2), the impact fee shall be paid before the larger meter is allowed to be installed.
- (h) **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.
- (i) **Appeals.** A developer may appeal to contest the amount, collection or use of the impact fee in the manner provided herein.
- (1) 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.
 - (2) The only questions appealable under this section are the following, as authorized by §66.0617, Wis. Stats.:
 - a. The amount of fee charged and paid by the developer.
 - b. The method of collection of the impact fee.
 - c. The use to which the particular fee paid by the developer is put by the Village.
 - (3) Appeals must be brought within 30 days of the earlier of:
 - a. The date the impact fee is payable hereunder.

- b. In a situation where installment payments are allowed, the due date of the first required installment.
- (4) The appellant shall pay a filing fee of \$200 at the time of filing of the appeal. The notice of appeal shall be filed with the Village Clerk.
- (5) 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 Cross Plains 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.
- (6) 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.
- (7) 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.
- (j) **Public Water Impact Fee.**
- (1) The Village of Cross Plains is anticipating future land development that is expected to have a total of 485 ERUs upon full development. A public water impact fee is hereby imposed on all new development within the Village of Cross Plains.
- (2) The public water impact fee shall apply to all new development currently located in the Village of Cross Plains upon this section becoming effective. The public water impact fee shall also apply to development not currently located in the Village of Cross Plains upon any such development being annexed to the Village of Cross Plains.
- (3) The public water impact fee is imposed upon development being constructed at the time this section becomes effective or constructed after such time, as well as for modification or addition to existing development

where a larger water meter is installed. The public water impact fee is also imposed for installation of a larger water meter where a smaller water meter was originally installed and an impact fee was paid based on such smaller size and the property owner later requires a larger water meter, even if no modification or addition to the development was made subsequent to the installation of the smaller meter. The public water impact fees when a larger meter is installed are sometimes referred to in this chapter as a “larger meter fee” and shall be imposed according to the size of the new larger meter.

- (4) The public water impact fee imposed shall be calculated in each instance in the manner set forth in the Water System Impact Fee Study referred to in (d) (2) of this section (“the Report”).
- (5) The public water impact fee shall be \$1,468.00 for each REU.
- (6) The total public water impact fee for a particular development shall be based on the size of the water meter installed to service the development according to the following table of meter equivalents:

Meter Size	Number of REUs (referred to as “equivalent meter conversion” in the report)
3/4 or 5/8	1
1	2.5
1.25	3.7
1.5	5
2	8
3	15
4	25
6	50
8 or larger	80

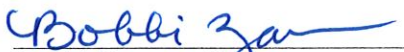
- (7) The impact fee for a particular development shall be equal to the impact fee per REU as set forth in (5) above, multiplied times the number of REUs, as determined by applying the above table of meter equivalents to the size of the meter installed to service the development.
- (8) **Exemptions and Credits.**
 - a. The following shall be fully or partially exempt from payment of a public water impact fee: additions to existing buildings where no additional or larger water meters are requested.
 - b. A larger meter impact fee shall be reduced by a credit in the amount of any impact fees paid with earlier water meter installations.

2. **Severability.** If any portion of this Ordinance or its application on any person or circumstances is held invalid, the validity of this Ordinance as a whole or any other provision herein or its application shall not be affected.
3. **Effective Date.** This Ordinance shall take effect immediately upon its passage and publication.

Adopted this 24 day of May, 2021.

VILLAGE OF CROSS PLAINS

By: 
Jay Kengfeld, President

By: 
Bobbi Zauner, Clerk