

ORDINANCE NO. 705

**AN ORDINANCE TO CREATE SECTION 18.10065 OF CHAPTER 18, THE
“LAND DIVISION AND DEVELOPMENT ORDINANCE” OF THE VILLAGE
OF SUSSEX ORDINANCES, TO IMPOSE IMPACT FEES ON DEVELOPERS
TO PAY FOR THE CAPITAL COSTS THAT ARE NECESSARY TO
ACCOMMODATE LAND DEVELOPMENT FOR PARKS, PLAYGROUNDS
AND LAND FOR ATHLETIC FIELDS**

WHEREAS, Wisconsin Statute Section 66.0617 authorizes a political subdivision, including the Village of Sussex, to enact an Ordinance that imposes impact fees on Developers to pay for the capital costs that are necessary to accommodate land development; and

WHEREAS, the public facilities for which impact fees may be imposed include parks, playgrounds and land for athletic fields, pursuant to Wisconsin Statute Section 66.0617(1)(f); and

WHEREAS, after carefully considering this matter, and in order to reasonably determine the existing public facilities needs and future facilities needs related to parks, playgrounds and land for athletic fields in the Village of Sussex, the Village of Sussex authorized the firm of Schreiber, Anderson, and Associates, to prepare a public facilities needs assessment in this regard; and

WHEREAS, the public facilities needs assessment was prepared in accordance with Wisconsin Statute Section 66.0617(4);and

WHEREAS, said public facilities needs assessment was made available for public inspection and copying in the Office of the Village of Sussex Village Clerk at least twenty (20) days before a public hearing was held in this matter; and

WHEREAS, Notice of Public Hearing regarding this matter was published as a Class 2 Notice under Chapter 985 Wisconsin Statutes, including specifying where a copy of the proposed Ordinance and the Public Facilities Needs Assessment could be obtained; and

WHEREAS, the Village Board of the Village of Sussex held a public hearing on the proposed Ordinance at the Village of Sussex Village Hall on May 13, 2008 pursuant to Wisconsin Statute Section 66.0617(3); and

WHEREAS, the Village Board finds that the conclusions of the Public Facilities Needs Assessment and Impact Fee Study are reasonable and appropriate, with regard to the impact fees relevant to parks, playgrounds, and land for athletic fields, and in particular the Village Board finds that the same:

- 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 Village of Sussex;
- c. are based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities;
- d. compensate, as necessary, for other capital costs proposed by the Village of Sussex with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications or fees in lieu of landing dedications under Chapter 236 or any other items of value;
- e. compensate, as necessary, for monies received from the Federal or State Government specifically to provide or pay for 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 property owner to the Village of Sussex, in full upon the issuance of a building permit.

WHEREAS, the Village Board shall refund to the then-current owner of the property such fees as may be collected within 7 years of the effective date of this ordinance but which are not used within 10 years after the effective date of this ordinance to the then-current owner of the property, as required by statute, unless such time is extended pursuant to applicable laws; and,

WHEREAS, the Village Board finds that the appropriate planning period is through the year 2020, subject to the 10 year limit as noted above; and,

WHEREAS, the Village Board finds it to be reasonable that an appeal may be made by a Developer, as required by Wisconsin Statute Section 66.0617(10), in the same manner that other fees imposed under Chapter 18 may be brought before the Village Board under Section 18.1000 of the Village of Sussex Land Division and Development Ordinance.

NOW, THEREFORE, The Village Board of the Village of Sussex, Waukesha County, Wisconsin, does hereby ordain as follows:

SECTION 1: Chapter 18 “Land Division and Development Ordinance,” Section 18.1000, “Fees,” Section 18.10065, “Impact Fees”, of the Village Ordinances of the Village of Sussex is hereby created as follows:

18.10065 IMPACT FEES

(A) ENACTMENT OF IMPACT FEE.

If the Village Board determines that the dedication as described in Section 18.0709 of this Chapter, is not feasible or compatible with development of the Village of Sussex, the owner shall, in lieu thereof, pay to the municipality an impact fee as described in this Section 18.10065, which shall constitute the proportionate payment described in Section 18.0709 of this Code, to pay for the capital costs that are necessary to accommodate future land development with regard to parks, playgrounds and land for athletic fields, and such Section 18.0709 of this Code shall not apply except for amounts, if any, allowed by Wisconsin Statutes Section 236.45(6)(am) for acquisition or initial improvement of land for public parks which exceed the amount of the capital costs that are necessary to accommodate future land development with regard to parks, playgrounds and lands for athletic fields recovered by this impact fee.

(B) FEE AMOUNT.

The amount of the impact fee shall be as follows:

(1) Base impact fee amount.

Residential/per single family home: \$ 1,479.28

Residential/per multi-family unit \$ 1,479.28

(2) In order to account for the difference between the above listed fees and the full costs eligible to be charged by the Community to address park and open space projects as outlined in the Public Facilities Needs Assessment and Impact Fee Study, the annual increase of the impact fee shall be 8% per year until the base impact fee reaches \$2,383.61.

(3) Once the fee reach \$2,383.61 in order to account for future increases in construction costs and interest costs, and in order to ensure that the fees are equitably distributed between current and future Developers, the base impact fees described herein shall automatically adjust on an annual basis on January 1 of each year by the percentage increase or decrease in the United States Bureau of Labor Statistics Midwest Region All Items Consumer Price Index for All Urban Consumers from January 1 of the preceding year.

(C) ACCOUNTING.

Revenues from impact fees shall be placed in a segregated, interest-bearing account and shall be accounted for separately from the other funds of the Village of Sussex. Impact fee revenues and interest earned on impact fee revenues may be expended only for capital costs for which the impact fees were imposed.

(D) REFUND OF IMPACT FEES.

Impact fees that are imposed and collected within 7 years of the effective date of this ordinance by the Village of Sussex pursuant to this ordinance must be spent or refunded within 10 years of the effective date of this ordinance, unless extended by resolution, pursuant to Wisconsin Statute Section 66.0617(9)(b). Impact fees that are collected by the Village of Sussex more than 7 years from the effective date of this ordinance must be expended within a reasonable period of time after collection. Refunds shall be made to the then-current owner of the property with respect to which the impact fees were imposed along with any interest that has accumulated.

(E) PAYMENT.

Pursuant to Wisconsin Statute Section 66.0617(6)(g), impact fees imposed under this Section shall be payable by the developer or the property owner to the Village of Sussex in full upon the issuance of a building permit.

(F) APPEAL.

Pursuant to Wisconsin Statute Section 66.0617(10), a Developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the Village of Sussex Village Board. The procedure for the appeal shall be the same appeal procedures that apply to other fees pursuant to Section 18.1000 of the Village of Sussex Land Division and Development Ordinance, including any amendments that may be made thereto in the future.

(G) INTERPRETATION.

The Village of Sussex exercises this authority pursuant to Wisconsin Statute Section 66.0617, and this Ordinance shall be interpreted in conjunction with said Statute, including any future revisions thereto, including, but not limited to, the statutory definition of the term "Developer."

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 13 day of May, 2008.

VILLAGE OF SUSSEX
/S/ Tony Lapcinski, Village President

ATTEST:
/S/ Susan M. Freiheit, Village Clerk