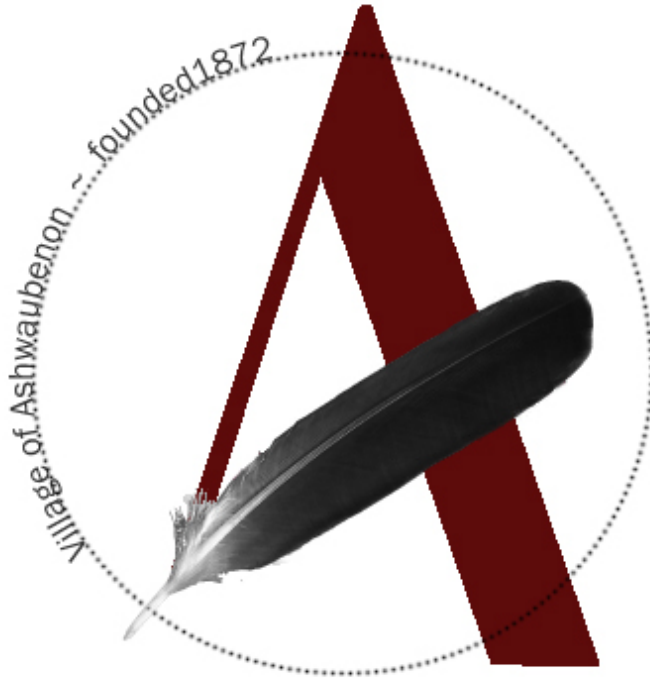


# Village of Ashwaubenon

## Municipal Code Book

Friday, March 24, 2017 3:01 PM



Printed for:  
Chapter 12 - Finance and Taxation

# Municipal Code Book

|   |           |
|---|-----------|
| <b>Chapter 12 - Finance and Taxation .....</b>  | <b>4</b>  |
| <b>Article 1 - Finance .....</b>  | <b>4</b>  |
| 12-1-19 Fiscal Year .....   | 4         |
| 12-1-20 Letting of Contracts .....  | 4         |
| 12-1-21 Duplicate Treasurer's Bond .....  | 4         |
| 12-1-22 Temporary Investment of Funds Not Immediately Needed .....  | 4         |
| 12-1-48 Departmental Estimates .....  | 4         |
| 12-1-49 Preparation of Proposed Budget .....  | 4         |
| 12-1-50 Information Required .....  | 5         |
| 12-1-51 Copies Required .....   | 5         |
| 12-1-52 Hearing .....   | 5         |
| 12-1-53 Action by Board .....   | 5         |
| 12-1-54 Changes in Budget .....   | 5         |
| 12-1-55 Village Funds To Be Spent In Accordance With Appropriations .....   | 6         |
| 12-1-84 Processing of Claims From Village Treasury .....  | 6         |
| 12-1-85 Urgent Claims .....   | 6         |
| 12-1-86 Monthly Financial Statements .....  | 6         |
| 12-1-87 Annual Independent Certified Audit of Financial Transactions and Accounts .....                                   | 7         |
| 12-1-88 The Assistant to the Director of Finance May Perform the Duties of the Director of Finance if so Designated ..... | 7         |
| 12-1-89 Village Blanket Bond to Cover the Director of Finance .....   | 7         |
| <b>Article 2 - Ad Valorem Taxes .....</b>   | <b>7</b>  |
| 12-2-107 Aggregate Tax Stated on Tax Roll .....   | 7         |
| 12-2-109 Check Fee for Insufficient Funds .....   | 7         |
| 12-2-110 Confidentiality of Information About Income and Expenses .....   | 8         |
| <b>Article 3 - Hotel and Motel Tax .....</b>  | <b>8</b>  |
| 12-3-134 Definitions .....  | 8         |
| 12-3-135 Tax Imposed .....  | 9         |
| 12-3-136 Permit .....   | 9         |
| 12-3-137 Tax Number .....   | 9         |
| 12-3-138 Records Retention .....  | 9         |
| 12-3-139 Filing Returns .....   | 9         |
| 12-3-140 Clerk-Treasurer's Right of Inspection and Audit .....  | 10        |
| 12-3-141 Confidentiality .....  | 10        |
| 12-3-142 Administration and Payment of Taxes .....  | 11        |
| 12-3-143 Failure to Pay Tax When Due .....  | 11        |
| <b>Article 4 - Impact Fees .....</b>  | <b>11</b> |
| 12-4-170 Purpose .....  | 11        |
| 12-4-171 Authority .....  | 11        |
| 12-4-172 Definitions .....  | 12        |
| 12-4-173 Needs Assessment .....   | 13        |
| 12-4-174 Amount of Impact Fees .....  | 13        |

12-4-175 Administration ..... 14  
12-4-176 Penalty ..... 14  
12-4-177 Appeals ..... 14

# Chapter 12 - Finance and Taxation

## Article 1 - Finance

### 12-1-19 Fiscal Year

The calendar year shall be the fiscal year.

(Code 2006, § 3.02) State law reference— Similiar provision, Wis. Stats. § 61.51(3).

### 12-1-20 Letting of Contracts

As a complete alternative to the requirements established by Wis. Stats. §§ 61.54 and 61.55, Wis. Stats. § 62.15 shall apply to village contracts. The authority vested in the board of public works by Wis. Stats. § 62.15 shall be exercised by the village board, or as delegated by the village board.

(Code 2006, § 3.08) State law reference— Authority to adopt alternative procedure, Wis. Stats. § 61.56.

### 12-1-21 Duplicate Treasurer's Bond

- (A) *Eliminated.* The village elects not to give the bond on the village clerk-treasurer provided for by Wis. Stats. § 70.67(1).
- (B) *Village liable for default of clerk-treasurer.* Pursuant to Wis. Stats. § 70.67(2), the village shall pay, if the clerk-treasurer fails to do so, all state and county taxes required by law to be paid by such clerk-treasurer to the county treasurer.

(Code 2006, § 3.09)

### 12-1-22 Temporary Investment of Funds Not Immediately Needed

The clerk-treasurer may invest any village funds not immediately needed, pursuant to Wis. Stats. § 66.0603(1m).

(Code 2006, § 3.10) State law reference— Investments, Wis. Stats. § 66.0603.

### 12-1-48 Departmental Estimates

Annually, at a time specified by the village president, each officer, department and committee shall file with the director of finance an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year; a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year and of the conditions and management of such fund; and detailed estimates of the same matters for the current and ensuing fiscal years. Such statements, which shall be designated as departmental estimates, shall be presented in the form prescribed by the director of finance, such form to be as nearly uniform as possible for the main division of all departments.

(Code 2006, § 3.03(1))

### 12-1-49 Preparation of Proposed Budget

The village president shall annually prepare and submit to the board a proposed budget presenting a financial plan for conducting the affairs of the village for the ensuing fiscal year. He shall provide each member of the village board with a copy of such budget at least two weeks prior to the budget meeting.

(Code 2006, § 3.03(2)(a))

#### **12-1-50 Information Required**

The budget shall include the following information:

- (A) The expense of conducting each department and activity of the village for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.
- (B) An itemization of all anticipated income of the village from sources other than general property taxes and bonds issued, with a statement comparing the amounts received by the village from each of the same or similar sources for the last preceding and current fiscal year.
- (C) An itemization of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
- (D) Such other information as may be required by the board and by state law.

(Code 2006, § 3.03(2)(b))

#### **12-1-51 Copies Required**

The village shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(Code 2006, § 3.03(2)(c))

#### **12-1-52 Hearing**

The board shall hold a public hearing on the budget as required by law.

(Code 2006, § 3.03(3))

#### **12-1-53 Action by Board**

Following the public hearing, the proposed budget may be changed or amended and shall take the same course with the board as ordinances.

(Code 2006, § 3.03(4)) State law reference— Municipal budgets, Wis. Stats. § 65.01 et seq.

#### **12-1-54 Changes in Budget**

The amount of the tax to be levied or certified and the amounts of the various appropriations, and the purposes thereof, shall not be changed after approval of the budget except by a two-thirds vote of all the members of the village board. Notice of such change shall be given by publication within 15 days thereafter

in the official village newspaper.

(Code 2006, § 3.04)

#### **12-1-55 Village Funds To Be Spent In Accordance With Appropriations**

No money shall be drawn from the treasury of the village, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by section 12-54. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made has been accomplished or abandoned.

(Code 2006, § 3.05)

#### **12-1-84 Processing of Claims From Village Treasury**

Except for claims subject to Wis. Stats. § 893.80, payments may be made from the village treasury after the director of finance and village manager audit and approve each claim as a proper charge against the treasury and endorse their approval on the claim after having determined that the following conditions have been complied with:

- (A) That funds are available therefor pursuant to the budget approved by the village board.
- (B) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission.
- (C) That the item or service has been actually supplied or rendered in conformity with such authorization.
- (D) That the claim is just and valid pursuant to law. The director of finance and director of administrative services may require the submission of such proof and evidence to support the foregoing as in their discretion they may deem necessary.

(Code 2006, § 3.06(1); Ord. No. 10-5-84, 10-23-1984)

#### **12-1-85 Urgent Claims**

For purposes of this section, urgent claims shall be those which in the best interests of the village, for financial or other reasons, the village president determines should be paid without waiting for the next village board meeting.

- (A) Urgent claims shall be approved by the village president prior to payment.
- (B) Claims other than urgent claims shall be approved by the village board prior to payment.

(Code 2006, § 3.06(2); Ord. No. 10-5-84, 10-23-1984)

#### **12-1-86 Monthly Financial Statements**

The director of finance shall file with the village board, not less than monthly, financial statements, including the following:

- (A) A combining balance sheet of all village funds;
- (B) A statement of revenues, expenditures and changes in fund balance for all village funds;
- (C) A budget to actual revenue and expenditure statement for the general fund; and
- (D) A list of the claims paid since the last statement showing the date paid, name of claimant, purpose, amount and account distribution.

(Code 2006, § 3.06(3); Ord. No. 10-5-84, 10-23-1984)

#### **12-1-87 Annual Independent Certified Audit of Financial Transactions and Accounts**

The village board shall authorize an annual independent certified audit of its financial transactions and accounts by a public accountant licensed under Wis. Stats. Ch. 442. The village board shall designate the accountant to perform the audit. The audit shall be completed by May 1 of each year.

(Code 2006, § 3.06(4); Ord. No. 10-5-84, 10-23-1984)

#### **12-1-88 The Assistant to the Director of Finance May Perform the Duties of the Director of Finance if so Designated**

In order to accomplish the purposes of this section, the director of finance may designate the assistant to the director of finance to perform their duties and responsibilities under this section.

(Code 2006, § 3.06(5); Ord. No. 10-5-84, 10-23-1984)

#### **12-1-89 Village Blanket Bond to Cover the Director of Finance**

The director of finance shall be covered by the village's blanket bond of not less than \$5,000.00

(Code 2006, § 3.06(6); Ord. No. 10-5-84, 10-23-1984)

### **Article 2 - Ad Valorem Taxes**

#### **12-2-107 Aggregate Tax Stated on Tax Roll**

Pursuant to Wis. Stats. § 70.65(2), the treasurer of the taxation district shall, in computing the tax roll, insert only the aggregate amount of state, county, school and local taxes in a single column on the roll opposite the parcel or tract of land against which the tax is levied or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied.

(Code 2006, § 3.01)

#### **12-2-109 Check Fee for Insufficient Funds**

For any check payable to the village that is returned to the village because it was drawn on an account with insufficient funds or was otherwise worthless, a fee shall be imposed in an amount on file in the office of the clerk-treasurer.

(Code 2006, § 3.14)

### **12-2-110 Confidentiality of Information About Income and Expenses**

Whenever the assessor, in the performance of the assessor's duties, requests or obtains income and expense information pursuant to Wis. Stats. § 70.47(7)(af), or any successor statute thereto, such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis; except, however, that the information may be revealed to and used by persons in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the assessor in performance of official duties of the assessor's office and use by the board of review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the assessor under Wis. Stats. § 70.47(7)(af), unless a court determines that it is inaccurate, is, per Wis. Stats. § 70.47(7)(af), not subject to the right of insertion and copying under Wis. Stats. § 19.35(1).

(Code 2006, § 3.15; Ord. No. O9-7-99, 9-28-1999) State law reference— Confidentiality of income/expense information, Wis. Stats. § 70.47.

## **Article 3 - Hotel and Motel Tax**

### **12-3-134 Definitions**

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

*Customer* means any person residing for a continuous period of time less than one month in a hotel, motel or furnished accommodation available to the public.

*Gross receipts* means, insofar as applicable, as defined in Wis. Stats. § 77.51(4)(a), (b) and (c).

*Hotel or motel* means a building or group of buildings in which the public may obtain accommodations for a consideration including, without limitation, inns, motels, hotels, tourist rooms, tourist houses or courts, lodginghouses, roominghouses, summer camps, apartment hotels, resort lodges and cabins and any other building in which accommodations are available to the public, except accommodations including mobile homes as defined in Wis. Stats. § 66.0435(1)(d), rented for a continuous period of more than one month and accommodations furnished by hospitals, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided no part of the net earnings of such corporations and associations inure to the benefit of any private shareholder or individual.

*One month* means a calendar month or 30 days, whichever is less, counting the first day of the rental and not counting the last day of the rental.

*Person responsible* means the sole owner of the business subject to this article; the partners if a partnership owns the business subject to this article, the corporate president or designated general manager or agent if a corporation owns the business subject to this article.

*Transient* means any person residing for a continuous period of less than one month in a hotel, motel or other



furnished accommodations available to the public.

(Code 2006, § 3.13(1); Ord. No. O5-4-88, 5-24-1988) State law reference— Definitions, Wis. Stats. § 77.52(2)(a)1.

### **12-3-135 Tax Imposed**

Pursuant to Wis. Stats. § 66.0615, a tax is imposed on the privilege of furnishing at retail rooms or lodging to customers by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodation. Such tax shall be at the rate of ten percent of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall be collected from the customer when the customer's bill is paid, and shall be paid by the person responsible to the village clerk-treasurer on a monthly basis. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. § 77.52(2). The proceeds of such tax shall be remitted to and received by the treasurer monthly on or before the 20th day of the following month.

(A) Such tax shall be distributed as provided by resolution of the board.

(Code 2006, § 3.13(2); Ord. No. O5-4-88, 5-24-1988; Ord. No. O7-07-93, 7-27-1993; Ord. No. O7-08-93, 7-27-1993; Ord. No. 11-03-94, 11-29-1994; Ord. No. O2-6-97, 2-25-1997; Ord. No. O12-1-98, 12-8-1998; Ord. No. O1-1-12, § 1, 1-10-2012)

### **12-3-136 Permit**

Every person furnishing rooms or lodging under section 12-135 shall file with the clerk-treasurer an application for each place of business. Every application shall be made upon a form prescribed by the treasurer and shall set forth the name under which the applicant intends to transact business, location of the place of business and such other information as the treasurer requires. The application shall be signed by the owner, if a sole proprietor, or, if not a sole proprietor, by the person responsible who is authorized to act on behalf of the business.

(Code 2006, § 3.13(3); Ord. No. O5-4-88, 5-24-1988)

### **12-3-137 Tax Number**

The clerk-treasurer shall issue to each applicant a separate number for each place of business within the village. Such number is not assignable and is valid only for the person in whose name it is issued and for the collection of the room tax at the place designated therein.

(Code 2006, § 3.13(4); Ord. No. O5-4-88, 5-24-1988)

### **12-3-138 Records Retention**

Every person liable for the tax imposed by this article shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as required by the clerk-treasurer.

(Code 2006, § 3.13(5); Ord. No. O5-4-88, 5-24-1988) State law reference— Keeping of records, Wis. Stats. § 66.0615(1m).

### **12-3-139 Filing Returns**

- (A) *Returns to be filed.* Returns shall be filed with the clerk-treasurer by persons subject to section 12-135 on or before the day such tax is due and payable. The return shall show the gross receipts from such retail furnishing of rooms or lodging of the preceding calendar month, the amount of tax imposed and such other information as the treasurer deems necessary for administrative purposes. An annual return shall be filed within 90 days of the close of each calendar or fiscal year and shall contain such information as the clerk-treasurer requires to administer this section. Each return shall be signed by the person required to file a return or an authorized agent, but need not be verified by oath. The clerk-treasurer may for good cause extend the time of filing any return, but not longer than 30 days from the filing date.
- (B) *Failure to file.* If any person required to make a return fails, neglects or refuses to do so for the amount and in the manner, form and time prescribed herein, the clerk-treasurer, according to their best judgment, shall determine the amount of the tax due the village and make a dooming assessment upon the person who fails to file and pay on a timely basis. Each person whose tax is determined by the clerk-treasurer shall pay the amount determined plus interest at the rate of one percent per month on the unpaid balance. No refund or modification of the payment as determined by the clerk-treasurer may be granted until the person files a correct room tax return and permits the clerk-treasurer or an authorized agent to inspect and audit the records of the business required to be kept in section 12-138.
- (C) *Late filing fee.* In addition to any other forfeiture provided herein, whether imposed or not, a forfeiture of \$100.00 shall be imposed upon and collected from any person each time such person fails to file the return required in subsection (A) of this section on a timely basis.

(Code 2006, § 3.13(6); Ord. No. O5-4-88, 5-24-1988) State law reference— Collection, Wis. Stats. § 66.0615(1m); penalty for failure to file and pay tax, Wis. Stats. § 66.0615(2)(e).

### **12-3-140 Clerk-Treasurer's Right of Inspection and Audit**

- (A) Whenever the clerk-treasurer has probable cause to believe that the correct amount of room tax has not been assessed upon and collected from customers or that the tax return is not correct, the clerk-treasurer may cause an inspection and audit of the financial records of any person subject to section 12-135 to determine whether or not the correct amount of room tax is assessed, collected and paid according to sections 12-135 and 12-139
- (B) If any person subject to section 12-135 fails to comply with a request by the clerk-treasurer or an authorized agent to inspect and audit the person's financial records as in subsection (a) of this section, such person shall be subject to a forfeiture in the amount of five percent of the tax due the village at the time of the audit.

(Code 2006, § 3.13(7); Ord. No. O5-4-88, 5-24-1988) State law reference— Audit, Wis. Stats. § 66.0615(2)(a); penalty for refusing audit request, Wis. Stats. § 66.0616(2)(b). Page

### **12-3-141 Confidentiality**

Information obtained under this article shall be confidential, except the clerk-treasurer may provide information to persons using the information in the discharge of duties imposed by law, the duties of their office, such as the duties of the office of room tax commissioner, or by order of a court. The clerk-treasurer may publish statistics classified so as not to disclose the identity of particular returns. Any person who violates any provision of this section shall forfeit not less than \$100.00 nor more than \$500.00.

### **12-3-142 Administration and Payment of Taxes**

This section shall be administered by the clerk-treasurer and the finance committee. The tax imposed for the month is due and payable on the 20th day of the month following the collection of the tax from the customer under section 12-135.

(Code 2006, § 3.13(9); Ord. No. O5-4-88, 5-24-1988)

### **12-3-143 Failure to Pay Tax When Due**

- (A) *Forfeitures.* In addition to the forfeitures provided in this chapter and the tax due under this article, a forfeiture of 25 percent of the room tax due for the previous year under section 12-135 or \$5,000.00, whichever is less, shall be imposed upon any person or business that allows the monthly tax imposed to be delinquent under this article.
- (B) *Delinquent taxes.* The tax imposed by this article shall become delinquent if not paid within 30 days after the due date of the return or within 30 days after the expiration of an extension prior if one has been granted. If a return is filed late or there is no return filed, the due date for the taxes imposed is the due date of the return.
- (C) *Security may be required.* In order to protect the revenue of the village, the village clerk-treasurer shall require any person liable for the tax imposed by this section, who fails to pay the tax as herein required, to file with the treasurer before or after the permit is issued such security not in excess of \$5,000.00 cash or a surety bond equal to the prior months tax as the village clerk-treasurer may refuse or revoke its permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the village clerk-treasurer may, upon ten days notice and after giving the taxpayer an opportunity to confer, recover the taxes, interest and penalties from the security or surety placed with the village clerk-treasurer by such taxpayer. No interest shall be paid or allowed by the village to any person for the deposit of such security.

(Code 2006, § 3.13(10); Ord. No. O5-4-88, 5-24-1988) State law reference— Failure to pay tax, Wis. Stats. § 66.0615(2)(e).

## **Article 4 - Impact Fees**

### **12-4-170 Purpose**

In order to provide for the capital costs for the construction, expansion, and improvement of public facilities, to wit: parks, playgrounds and other recreational facilities, including the cost of legal, engineering, and design costs to serve growth in the village's residential and business population, there are hereby imposed the following impact fees upon developers to pay for the capital costs that are necessary to accommodate land development in compliance with the requirements of Wis. Stats. § 66.0617.

(Code 2006, § 3.16(1); Ord. No. O8-1-04, 8-10-2004)

### **12-4-171 Authority**

Authority for this article is provided by Wis. Stats. § 66.0617. The provisions of this article shall not be construed to limit the power of the village to adopt any ordinance pursuant to any other source of local

authority or to utilize any other methods or powers otherwise available for accomplishing the purposes set forth in section 12-170, either in lieu of or in conjunction with this article.

(Code 2006, § 3.16(2); Ord. No. O8-1-04, 8-10-2004)

#### **12-4-172 Definitions**

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

*Building permit* means the permit required for new residential and nonresidential construction and additions pursuant to chapter 5, pertaining to buildings and building regulations. The term "building permit" 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 not an increase in the number of dwelling units resulting therefrom or the number of employees.

*Capital costs* means 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 ten percent of capital costs may consist of legal, engineering, and design costs unless the political subdivision 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 percent of capital costs. The term "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* means any parks and recreational facilities, construction, improvements, equipping, and installing of the same and which facilities are identified in the needs assessment to be financed by the imposition of an impact fee.

*Developer* means a person that constructs or creates a land development.

*Fulltime equivalent* employees are based on 40 hours per week, 2,080 hours per year and/or the combination of the number of parttime employees that would equal a fulltime equivalent employee or employees.

*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 political subdivision under this article.

*Land development* means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that results in nonresidential uses and employment that create a need for new, expanded, or improved public facilities within a political subdivision.

*Needs assessment* means the assessment of needs required to identify public facility costs for the purpose of calculating impact fees as defined by Wis. Stats. § 66.0617.

*Nonresidential development* means any development approved by the local government for any business, commercial, retail, office or industrial use.

*Political subdivision* means a city, village, town, or county.

*Public facilities* means highways, as defined in Wis. Stats. § 340.01(22), and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and other recreational facilities, solid waste and recycling facilities, fire protection facilities, law enforcement facilities,

emergency medical facilities, and libraries. The term "public facilities" does not include facilities owned by a school district.

*Residential development* means any development approved by the local government for residential use.

*Service area* means a geographic area delineated by the village within which there are public facilities.

*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 village.

(Code 2006, § 3.16(3); Ord. No. O8-1-04, 8-10-2004) State law reference— Definitions, Wis. Stats. § 66.0617(1).

#### **12-4-173 Needs Assessment**

The village public facilities needs assessment for parks, playgrounds and other recreational facilities is hereby adopted and shall be used as the basis for the impact fees imposed pursuant to this article.

(Code 2006, § 3.16(4); Ord. No. O8-1-04, 8-10-2004) State law reference— Need assessment, Wis. Stats. § 66.0617(4).

#### **12-4-174 Amount of Impact Fees**

Any developer creating or constructing additional residential dwelling units or nonresidential development within the village shall pay a fee to the village to provide for the capital costs necessary to accommodate the park, playground and recreational needs of land development.

- (A) The amount of the residential dwelling fee shall be an amount which is on file in the office of the clerk-treasurer per residential dwelling unit to be constructed or created by the proposed development unless otherwise amended by the village board.
- (B) The amount of the fee shall be on file in the office of the clerk-treasurer per unit for multifamily development to be constructed or created by the proposed development unless otherwise amended by the village board.
- (C) The amount of the fee for nonresidential development to be constructed or created by the proposed development unless otherwise amended by the village board shall be calculated on the number of fulltime employee equivalents employed at the nonresidential development and the impact fee schedule, which is on file in the office of the clerk-treasurer, based on the number of fulltime equivalent employees shall apply.
- (D) All fees set forth in this section shall be incorporated into a fee schedule which shall be on file with the village clerk-treasurer and the building inspector. The fee schedule may be revised from time to time by resolution of the village board.
- (E) The fee shall be imposed as a condition of approval of any building permit for the subject land development and the payment thereof shall be made to the village prior to the issuance of such building permit.

(Code 2006, § 3.16(5); Ord. No. O8-1-04, 8-10-2004; Ord. No. O11-4-05, § 3.16, 11-22-2005) State law reference— Standards for impact fees, Wis. Stats. § 66.0617(6).

#### **12-4-175 Administration**

All fees collected and special accounts maintained under this chapter shall be subject to administration by the village clerk-treasurer.

- (A) *Segregated account.* There is hereby established a public park, playground and recreational facility improvement impact fee fund which shall be in a segregated interest-bearing account and shall be accounted for separately from all other funds of the village.
- (B) *Expenditures.* Funds collected and deposited to such account from the park, playground and recreational facility improvement impact fees and interest earned thereon shall be used solely for capital costs for which the impact fees are imposed, as more specifically identified in the village public facilities needs assessment for parks, playgrounds and other recreational facilities and the village comprehensive outdoor recreations plan as amended, and shall not be used for maintenance nor to address any existing deficiencies in park, playgrounds and other recreational facilities at the time of enactment or for the purchase of land.
- (C) *Refund of impact fees.* Impact fees that are imposed and collected by the village shall be expended by the village for the purposes described herein within eight years of the date of payment or such fee amount paid shall be refunded to the then-owner of the property upon which such fee was collected.
- (D) *Bonding.* In the event that bonds or similar debt instruments are issued for advanced provision of park, playgrounds and other recreational facilities for which such impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are within the capital costs contemplated in said park, playgrounds and other recreational facilities needs assessment.
- (E) *Report required.* Commencing with the calendar year subsequent to the effective date of the ordinance from which this chapter is derived, the village clerk-treasurer shall report annually to the village 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 village board with information necessary to determine that all funds collected are spent within a reasonable amount of time pursuant to this chapter, 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 for land development.

(Code 2006, § 3.16(6); Ord. No. O8-1-04, 8-10-2004) State law reference— Refund of impact fees, Wis. Stats. § 66.0617(9).

#### **12-4-176 Penalty**

Any person violating any provision of this article shall be subject to the uniform penalty provisions of Chapter 1, Section 1-13, or any other legal remedy available according to law.

(Code 2006, § 3.16(7); Ord. No. O8-1-04, 8-10-2004)

#### **12-4-177 Appeals**

Any developer who disputes the amount, collection, or use of the impact fees provided for in this article shall have the right to appeal to the village board and the procedure for such appeal shall be as follows:

- (A) *Appeal initiation and appeal application fee.* An appeal shall be initiated by filing a written notice of appeal with the village clerk-treasurer accompanied by an appeal application fee in an amount which is on file in the office of the clerk-treasurer plus postage.
- (B) *Content of the written notice of appeal.* The written notice of appeal shall include the name, address, and telephone number of the developer, 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.
- (C) *Hearing the appeal.* Upon receipt of the written notice of appeal and appeal application fee, the village clerk-treasurer shall schedule a special meeting of the village board for the special purpose of hearing the appeal. Such special meeting shall be scheduled not more than 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 developer in writing.
- (D) *Conduct of the appeal proceedings.* The developer may present such oral and documentary evidence as the developer may desire upon the hearing and the village plan commission may similarly submit evidence in support of the impact fee. All proceedings shall be electronically recorded or taken by a court reporter, at the option of the developer. If a court reporter is requested, the developer shall pay the costs thereof.
- (E) *Village board determination.* The village board shall make its determination based upon the evidence presented and shall issue its decision in writing within 20 days of the hearing.
- (F) *Certification to the county circuit court.* The decision of the village board may be certified to the county circuit court as a special writ for judicial review.

(Code 2006, § 3.16(8); Ord. No. O8-1-04, 8-10-2004) State law reference— Appeal, Wis. Stats. § 66.0617(10).