

ORDINANCE NUMBER 05 - 17

ORDINANCE AMENDING TITLE XV, LAND USAGE, BY ADDING A NEW CHAPTER 158, DEVELOPMENT IMPACT FEES

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that Title XV, **Land Usage**, be amended by adding a new Chapter 158, **Development Impact Fees**.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. That **Title XV, Land Usage** of the Village of East Dundee Code of Ordinances is hereby amended by adding a new Chapter 158, **Development Impact Fees** as follows:

DEVELOPMENT IMPACT FEES

§ 158.01 TITLE.

This chapter shall be known, cited and referred to as the "Development Impact Fee Ordinance" and may be cited herein as "this chapter."

§ 158.02 FINDINGS AND PURPOSE.

- (A) It is declared to be the policy of the Village that the provision of various public facilities and services required to serve new development is subject to the control of the Village in accordance with the comprehensive plan of the Village for the orderly, planned, efficient, and economical development of the Village.
- (B) New developments cause and impose increased and excessive demands upon public facilities and services that are specifically and uniquely attributable to those new developments.

(C) Planning projections indicate that new development shall continue and shall place ever-increasing demands on public facilities and services.

(D) Development potential and property values are influenced and affected by Village policy as expressed in the comprehensive plan and as implemented by the Village zoning ordinance.

(E) To the extent that new developments place demands upon public facilities and services that are specifically and uniquely attributable to such developments, those demands should be satisfied by requiring that the new developments creating the demands pay the cost of meeting the demands.

(F) The Village Board of Trustees, after careful consideration, hereby finds and declares that imposition of development impact fees upon new developments to finance specified public facilities and services, the demand for which is created by such developments within the Village, is in the best interests of the general welfare of the Village and its residents, is equitable, and does not impose an unfair burden on such developments. Therefore, the Village Board of Trustees deems it necessary and desirable to adopt this chapter as herein set forth.

§ 158.03 APPLICABILITY.

This chapter requires payment of development impact fees, payable at the time of issuance of a building permit, in an amount equal to the proportionate share of the cost of the various public facilities and services required to serve certain developments. This chapter shall apply to all fees and charges imposed by the Village to finance different types of capital improvements, public facilities and public services, the need for which is created by new development.

§ 158.04 DEFINITIONS.

(A) The language in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- (1) The singular number includes the plural number, and the plural the singular;
- (2) The word "shall" is mandatory; the word "may" is permissive; and
- (3) The masculine gender includes the feminine and neuter.

(B) The following words and phrases shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this Subsection, except when the context otherwise indicates.

(1) "**Administrative Fee**" means a special and additional fee imposed pursuant to the provisions of this Chapter that constitutes the City's estimate of the costs and expenses that it incurs in administering this chapter for each development, including, without limitation, staff time, attorney fees, and other third party consultant fees and costs.

(2) "**Bedroom**" means any room in a dwelling unit that (a) is suitable for sleeping purposes, (b) is greater than 100 square feet in floor area, and (c) is not a living room, dining room, kitchen, or bathroom.

(3) "**Building Permit**" means the permit issued by the Village for the construction, reconstruction, alteration, addition, repair, placement, removal or demolition of or to a building or structure within the corporate limits of the Village.

(4) "**Building Site**" means an area of land designed, intended or used as a location for a structure.

(5) "**Capital Budget**" means the portion of the Village's annual budget devoted to the funding of capital improvement projects.

(6) "**Capital Improvement**" means land, facilities, projects or equipment for purposes of constructing or improving public facilities, including without limitation, newly constructed buildings; newly constructed structural improvements to buildings and permanent additions to buildings; systems that are being installed within newly constructed buildings or within permanent additions to buildings (including, but not limited to, electrical systems, plumbing systems, fire protection systems, and heating, ventilation, and air conditioning systems); additions to or replacements of systems within existing buildings to the extent necessary to meet the demands of development; grading, landscaping, seeding, and planting of shrubs and trees on sites and adjacent ways; and retaining walls and parking lots on sites; furnishing and installing for the first time fixed flagpoles, gateways, fences, and underground storage tanks that are not part of building service systems; and demolition work; for transportation and transit, including without limitation, streets, street lighting and traffic-control devices and supporting improvements, roads, overpasses, bridges and related facilities; storm drainage facilities; for parks and recreational improvements; for acquisition of open space; for public safety, including police and jail facilities; for public buildings of all kinds; and any other capital project identified in the Village's Capital Improvement Plan. Capital improvement also includes the design, engineering, inspection, testing, planning, legal, land acquisition and all other costs associated with construction of a public facility.

(7) "**Capital Improvement Program**" means a multi-year plan of any public facility or service that: (i) projects, for a planning period of at least 5 years, the need for capital improvements within the service area served by the public body; (ii) sets forth a schedule for the construction, acquisition or leasing of the capital improvements to meet the projected need; (iii) indicates the size and general location of the needed capital improvements; (iv) identifies the estimated costs of constructing, acquiring, or leasing the needed capital improvements; and (v) sets

forth the anticipated funding sources and funds to be received by the public body (including, but not limited to, funds that will be received from the sale of existing capital improvements) for the construction, acquisition, or leasing of the needed capital improvements.

(8) "**Code**" means "The East Dundee Code of Ordinances", as amended.

(9) "**Collection**" means the point at which the development impact fee is actually paid to the Village.

(10) "**Commercial**" means a use of property for purposes other than residential.

(11) "**Comprehensive Plan**" means the official plan for the development of the Village adopted by the Village Board of Trustees.

(12) "**Cost**" means expenditures incurred or estimated to be incurred to fund a capital improvement project. These costs include, without limitation, acquisition of land, construction of improvements, equipping of facilities, and administrative, engineering, architectural, and legal expenses incurred in connection therewith.

(13) "**Detention Area**" means a dry-bottom area of land which provides for the temporary storage of stormwater runoff.

(14) "**Developer**" means the person undertaking a development, which may, for purposes of this chapter include, without limitation, the owner as well as the subdivider of the land on which the development is to take place.

(15) "**Development**" means any of the following activities: (a) any subdivision of land; (b) any re-subdivision or modification of an existing subdivision; (c) any planned unit development; (d) any modification of an existing planned unit development; or (e) any construction, reconstruction, alteration, addition, repair, or placement of or to a building, that requires the issuance of a building permit.

(16) "**Development Impact Fee**" means a monetary exaction imposed by the Village pursuant to this chapter as a condition or in connection with approval of a new development project for the purpose of financing, defraying or reimbursing all or a portion of the costs incurred by the Village for public facilities.

(17) "**Disbursement Statement**" means that certain statement entered into between the Village and each public body, individually, for any development for which the public body desires to receive development impact fees.

(18) "**Dwelling Unit**" shall have the meaning ascribed to it in the Zoning Ordinance.

(19) "**Gross Acreage**" means the entire area of a parcel of real property or a building site expressed in acres or portions thereof.

(20) "**Impose**" means to determine that a particular new development project is subject to collection of a development impact fee as a condition of development approval.

(21) "**Intergovernmental Agreement**" means that certain master agreement to be entered into between the Village and each public body, individually, that affirms each public body's acknowledgment that this chapter shall control the collection and distribution of development impact fees, or land in lieu of development impact fees, and that creates the responsibility for each public body to fully indemnify the Village in connection with its administration of this chapter.

(22) "**Lot**" shall have the meaning ascribed to it in the Zoning Ordinance.

(23) "**Non-residential new development project**" means all development other than residential development projects. For purposes of this chapter,

(a) "**General Commercial**" shall mean those types of uses as permitted within the commercial districts.

(b) "**Lodging**" shall mean hotel, motel, timeshare, bed and breakfast or similar lodging uses as permitted within the commercial district.

(24) "**Multi-family residential development project**" means a residential development project in which a duplex dwelling, a group dwelling or a multiple dwelling is constructed, as those terms are defined in the Zoning Ordinance

(25) "**Person**" means any individual, firm, partnership, association, corporation, organization or business, or charitable trust.

(25) "**Planned Unit Development**" shall have the same meaning ascribed to it in the Zoning Ordinance.

(26) "**Proportionate Share**" means the cost of a public facility or service specifically and uniquely attributable to a development; after the consideration of the generation of additional demand from the development, and any appropriate credits for contribution of money, dedication of land, or taxes dedicated for such projects.

(27) "**Public Facility**" means necessary public services that are permanent additions to the Village's assets, that are primarily financed by long-term debt instruments and not from the Village's annual operating budget, and which include design, construction, or purchase of land, buildings and facilities.

(28) **"Residential Development"** means any development, as defined in this chapter, that is (a) used, or is designed or intended to be used, entirely or in part, for residential purposes, and (b) contemplates, or results in, a net increase in the number of lots, dwelling units, or bedrooms over that which previously existed on the property on which the development is, or is to be, located.

(29) **"Retention Area"** means a wet-bottom area of land, which provides for the temporary storage of stormwater runoff.

(30) **"Service Standard"** means the existing level of service delivery associated with a public facility for which a development impact fee shall be required.

(31) **"Single-family dwelling"** shall have the same meaning as set forth in the Zoning Ordinance.

(32) **"Site Plan"** means a document prepared to scale indicating accurately the dimensions and boundaries of a site; and showing the location of all proposed buildings, structures, uses, and principal site development features for a parcel of land.

(33) **"Sites"** mean lands that are: (i) leased or owned, or to be leased or owned, by a public body; and (ii) used, to be used, or capable of being used for any purposes of the public body.

(34) **"Specifically and Uniquely Attributable"** means an identifiable portion of the need contained in the needs assessment for additional public facilities.

(35) **"Square footage"** means the net floor area included within the surrounding exterior walls of a building or portion thereof, exclusive of vents, shafts, courts, and either private or public garages meant for specific storage of vehicles.

(36) **"Subdivision"** shall have the meaning ascribed to it in the Subdivision Ordinance.

(37) **"Subdivision Agreement"** means an agreement, entered into between a Developer and the Village, approving and governing the subdivision of land pursuant to the Subdivision Ordinance.

(38) **"Subdivision Ordinance"** means Chapter 155 of this Code, regulating the processes and design standards applicable to the division of land within the Village, as the same has been, and may from time to time hereafter be, amended.

(39) **"Table of Estimated Ultimate Population per Dwelling Unit"** means the most current version of the population projection table, by dwelling unit type and age categories.

(40) "Village" means the Village of East Dundee.

(41) "Village Board of Trustees" means the Board of Trustees of the Village of East Dundee.

(42) "Wetland" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(43) "Zoning Ordinance" means Chapter 157 of this Code, regulating the use of land within the Village, as the same has been, and may from time to time hereafter be, amended.

§ 158.20 GENERAL PROCEDURES FOR DEVELOPMENT IMPACT FEES.

(A) Needs Assessment. Before or in conjunction with the adoption of development impact fees, the Village shall conduct a needs assessment for public facilities which are to be funded with the development impact fees. The needs assessment shall:

(1) Determine and distinguish between existing deficiencies and projected new development needs.

(2) Inventory existing public facilities.

(3) Identify the level of service standard applicable to each of the inventoried public facilities.

(4) Identify the level of service standards upon which the development impact fee is to be based.

(B) Imposition, Calculation and Collection of Development Impact Fees and Administrative Fees.

(1) The Village shall impose development impact fees as a condition of approval of all new development projects.

(2) Development impact fees shall be imposed prior to issuance of any building permit.

(3) Development impact fees shall be determined using the values contained in the Impact Fee Schedules.

(4) The following fees shall be collected by the Village prior to issuing any building permit for a residential development: (a) development impact fees, in the amount calculated and due pursuant to this chapter; and (b) administrative fees, in the amount set forth in the Annual Fee Resolutions.

(C) Transfer of Funds to Accounts. Upon receipt of the applicable development impact fees and administrative fee, the Village Building Department shall forward such fees to the Village Finance Department. The administrative fee shall be deposited into the Village's general fund. The development impact fees shall be deposited and disbursed as set forth in this chapter.

(1) Establishment and Maintenance of Accounts.

(a) The Village Finance Department shall establish an account in a bank authorized to receive deposits of the Village's funds.

(b) The development impact fee deposited in the account shall be used solely for the purposes specified in this chapter.

(c) The Village Finance Department shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, and which shall account for all moneys received.

(D) Disbursement of Funds.

(1) Development impact fees may be expended only for the type of capital improvements for which they were imposed, calculated and collected, and only according to procedures established by this chapter.

(2) Development impact fees may be used to repay the Village if the Village constructs the public facilities using other funding resources, and may be used to pay the principal, interest and other costs of bonds, notes and/or other obligations issued or undertaken by or on behalf of the Village to finance such public facilities' capital improvements.

(3) Where a development impact fee is not used for the purpose for which it was imposed or collected, such development impact fee shall be refunded pursuant to this chapter. The refund shall be paid to the party who owns the property at the time the refund is made.

(E) Waiver of Development Impact Fee.

The Village Board of Trustees may waive from development impact fee programs particular types and locations of development that are determined to serve an over-riding public interest, provided, however, that the waiver does not result in an increase in the development impact fee for other properties in the Village.

§ 158.21 USE OF DEVELOPMENT IMPACT FEES.

Development impact fees paid pursuant to this chapter shall be restricted to use solely and exclusively for paying the cost of public facilities and services, whether payment is made directly therefor, or as a pledge against bonds, revenue certificates, or other obligations of indebtedness.

§ 158.22 EFFECT OF DEVELOPMENT IMPACT FEES 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 public improvements subject to the zoning and subdivision regulations or other applicable regulations of the Village, which shall be operative and remain in full force and effect without limitation with respect to all such development.

§ 158.23 DEVELOPMENT IMPACT FEES AS ADDITIONAL AND SUPPLEMENTAL REQUIREMENT.

Development impact fees are additional and supplemental to, and not in substitution of, any other requirements imposed by the Village on the development of land or the issuance of building permits. In no event shall a property owner be obligated to pay for public facilities in an amount in excess of the amount calculated pursuant to this chapter; but, provided that a property owner may be required to pay, pursuant to Village ordinances, regulations or policies, for other public facilities in addition to the development impact fees for public facilities as specified herein.

§ 158.24 LAND IN LIEU OF DEVELOPMENT IMPACT FEES.

(A) Each public body may make a request in writing to the City Council to allow for a donation of land in lieu of development impact fees related to any development. Such a request shall specifically itemize the public body's reasons for requesting land in lieu of development impact fees.

(B) Upon receipt of a request from a public body for land in lieu of development impact fees, the City Council shall consider and perform an analysis of such request, and make a determination thereon by resolution duly adopted. The resolution shall be based upon a review of the triennial needs assessment on file with the City Clerk for the public body making the request, as well as the following factors: (1) other developments occurring in the prior year within the surrounding area of the development, (2) public facilities actually constructed and servicing the surrounding area of the development, (3) changing public facility needs and capacity at existing public facilities servicing the surrounding area of the development, and (4) such other factors as the City Council may deem to be relevant.

(C) Requests of land in lieu of development impact fees shall be made specifically for the construction of public facilities or expansion of public facilities on adjacent parcels.

(D) A developer that provides land in lieu of development impact fees shall still be required to pay the administrative fee required by this chapter.

§ 158.30 ESTABLISHMENT OF DEVELOPMENT IMPACT FEE SCHEDULE

The Development Impact Fee Schedule shall be calculated in accordance with the methodologies and findings of the Development Impact Fee Study conducted by Teska Associates, Inc., Evanston, Illinois.

§ 158.31 AMENDMENT PROCEDURES

Periodically, the Village Administrator or his/her designee shall report to the Village Board of Trustees, prior to the Village Board of Trustees' adoption of the budget and revisions for the next fiscal year, with: (1) recommendations for amendments to this chapter; and (2) proposals for changes to development impact fee rates and schedules.

Section Two. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the validity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Three. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Four. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 15th day of August, 2005, pursuant to a roll call vote as follows:

AYES: Ruffulo, VanOstenbridge, Scarpelli, O'Leary, Carlini

NAYES: None

ABSENT: Gorman

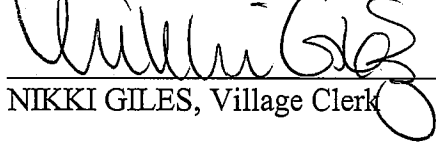
Approved by me this 15th day of August, 2005.



JERALD BARTELS, President

Published in pamphlet form this 19th day of August, 2005, under the authority of the President and Board of Trustees.

ATTEST:



NIKKI GILES, Village Clerk

Recorded in the Village Records on August 19, 2005.

