

ORDINANCE 04-2019
AMENDING CHAPTERS 198, 274, and 325
OF THE
VILLAGE OF COTTAGE GROVE MUNICIPAL CODE

The Village Board for the Village of Cottage Grove, Dane County Wisconsin, does hereby ordain as follows:

SECTION I. – BACKGROUND RATIONALE

2017 Wisconsin Act 243 amended Wisconsin Statutes related to development in several ways. Sections 11 through 19 of 2017 Wisconsin Act 243 pertain to the collection, use, and payment of impact fees.

Sections 52 through 57 of 2017 Wisconsin Act 243 pertain to a municipality requiring a subdivider to provide a surety to ensure the installation of public improvements necessary to the subdivision.

Sections 20 through 25 of 2017 Wisconsin Act 67 pertain to nonconforming uses and substandard lots.

Section 8 of 2017 Wisconsin Act 243 repeals 62.23(7)(d)(2m)(a), which provided the mechanism for a protest petition that when enacted requires a three fourths majority decision by the Village Board for a zoning approval. Therefore, a local municipality with a similar mechanism for a protest petition has the option to repeal that mechanism in its local ordinance.

Section 33 of 2017 Wisconsin Act 243 creates 66.1102(5) in the Wisconsin Statutes, which prohibits a municipality from enacting an ordinance that limits signage on construction fencing.

Chapter 198 of the Village of Cottage Grove Ordinances is the “Village of Cottage Grove Impact Fee Ordinance,” the purpose of which is “to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public facilities which are necessary to accommodate land development.”

Chapter 274 of the Village of Cottage Grove Ordinances is “intended to regulate and control the division and subdivision of land.”

Chapter 325 of the Village of Cottage Grove Ordinances, the “Village of Cottage Grove Zoning Ordinance,” is “intended to regulate and control the division and subdivision of land.”

Certain elements of 2017 Wisconsin Act 243 contradict or obfuscate portions of Chapter 198, the “Village of Cottage Grove Impact Fee Ordinance.” The proposed amendments below are intended to bring Chapter 198 into conformance with current Wisconsin Statutes.

Certain elements of 2017 Wisconsin Act 243 contradict or obfuscate portions of Chapter 274. The proposed amendments below are intended to bring Chapter 274 into conformance with current Wisconsin Statutes.

Certain elements of 2017 Wisconsin Act 67 and 2017 Wisconsin Act 243 contradict or obfuscate portions of Chapter 325, while Section 8 of 2017 Wisconsin Act 243 removes the statutory provision of a zoning protest petition. The proposed amendments below are intended to bring Chapter 325 into conformance with current Wisconsin Statutes, and to address the repealing of the zoning protest petition statute.

SECTION II. – CURRENT LANGUAGE

Section 198-5(B) currently reads:

“Impact Fee revenues imposed and collected but not used within a specified reasonable period of time after collection to pay the capital costs for which they were imposed shall be refunded on a prorated proportional basis, as determined by the Utility Commission, to the current record owner or owners of the property with respect to which the impact fees were imposed. Reasonable time periods for expenditure of impact fee revenues shall be within five years after the recommended time for commencement of construction, expansion, or improvement of a specific public facility identified in a facilities needs assessment report, or within 20 years after the projected loan obligations undertaken for a project to be satisfied.”

Section 198-5(B) shall be amended to read as follows:

“Impact Fee revenues imposed and collected but not used within 8 years to pay the capital costs for which they were imposed shall be refunded to the payer of the fees with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (A). Impact fees that are collected for capital costs related to lift stations or collecting and treating sewage that are not used within 10 years after they are collected to pay the capital costs for which they were imposed, shall be refunded to the payer of fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (A). 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.

Section 198-7 currently reads:

“Payment of Impact Fees. All required impact fees, unless expressly excepted in a section of this chapter, shall be paid prior to the issuance of a building or plumbing permit, or both, whichever permits are applicable. Impact fee payments shall be assumed to be the

responsibility of the owner of record at the time the building or plumbing permit, or both, is required.”

Section 198-7 shall be amended to read as follows:

“Payment of Impact Fees. All required impact fees, unless expressly excepted in a section of this chapter or unless meeting the criteria set forth in Wis. Stat. 66.0617(6)(g), shall be paid prior to the issuance of a building or plumbing permit, or both, whichever permits are applicable. Fees meeting the criteria set forth in Wis. Stat. 66.0617(6)(g) may be deferred as described in that statute. Impact fee payments shall be assumed to be the responsibility of the owner of record at the time the building or plumbing permit, or both, is required.”

Section 274-10 currently reads:

“Improvements. The subdivider or land divider shall, before the recording of the plat or certified survey map, enter into a contract with the Village agreeing to install the required improvements and shall file with said contract a bond meeting the approval of the Village Board, or a certified check, in an amount equal to the estimated cost of the improvements, said estimate to be made by the Village Board after review and recommendation by the Village Engineer, as a guarantee that such improvements will be completed by the subdivider or land divider or his subcontractors not later than two years from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied.”

Section 274-10 shall be amended to read as follows:

“Improvements. The subdivider or land divider shall, before the recording of the plat or certified survey map, enter into a contract or developer agreement with the Village agreeing to install the required improvements and shall file with said contract or developer agreement a performance bond meeting the approval of the Village Board and meeting the criteria described in Wis. Stat. 236.13(2)(am)(1m), letter or credit, certified check, or any combination thereof, at the subdivider’s option in an amount equal to the estimated cost of the improvements, said estimate to be made by the process defined in Wis. Stat. 236.13(2)(am)(1)(d), as a guarantee that such improvements will be completed by the subdivider or land divider or his subcontractors not later than two years from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. The subdivider may construct the project in such phases as the Village Board approves, which approval may not be unreasonably withheld. If the subdivider’s project will be constructed in phases, the amount of the security required by the Village Board is limited to the phase of the project that is currently being constructed.

Section 325-24(A)(2) shall be deleted, and 325-24(A)(3) shall be renumbered as (2).

Section 325-110(G) shall be deleted, and 325-110(H) shall be renumbered as (G).

Section 325-102(B) shall be amended to add the following:

“(9) Construction site fences, per 325-103(B)(10).”

Section 325-103(A) shall be amended to add the following:

“(10) Construction site fence banner sign. A banner installed over all or any part of a fence surrounding an active construction site.”

Section 325-103(B) shall be amended to add the following:

“(10) Construction site fence sign. A temporary fence surrounding an active construction site which may include banner signage on all or any part of said fence.”

SECTION III. - CONFLICT AND SEVERABILITY

SECTIONS 1-10 and 1-11 of the MUNICIPAL CODE OF THE VILLAGE OF COTTAGE GROVE shall apply to this ordinance.

SECTION IV. - EFFECTIVE DATE

This ordinance shall take effect upon compliance with the publication/posting requirements of the Wisconsin Statutes.

Adopted this ____ day of _____, 2019.

BY ORDER OF THE VILLAGE BOARD
VILLAGE OF COTTAGE GROVE

Jack Henrich, Village President

Attest:

Lisa Kalata, Village Clerk

Recommended By: Village of Cottage Grove Board

Drafted By: Village Attorney Leighton W. Boushea