

STATE OF WISCONSIN

WAUKESHA COUNTY

TOWN OF WAUKESHA

ORDINANCE NO. 2014-

AN ORDINANCE REPEAL AND RECREATE TITLE 3§ 3-1-24

REIMBURSEMENT FOR PROFESSIONAL EXPENSES AND FEES.

WHEREAS, the Town of Waukesha has long required the reimbursement of professional expenses and fees that are incurred by the Town which benefit private parties; and

WHEREAS, the Town Attorney has recommended that the Town Ordinance in this regard be amended to include an opportunity for property owners to appeal the charges that are billed to them under the Town's Ordinance, to ensure that due process is provided consistent with the decisions of courts in Waukesha County; and

WHEREAS, the Town Board intends to amend the Ordinance for the Reimbursement of Professional Fees and Expenses to allow an opportunity for affected property owners to appeal, to ensure fairness and due process in the chargeback procedure.

NOW, THEREFORE, the Town Board of the Town of Waukesha, Waukesha County, Wisconsin, DOES HEREBY ORDAIN as follows:

SECTION 1: Title 3 of the Town of Waukesha Town Code entitled "Finance and Public Records" Chapter 1 entitled "Finance," Section 3-1-24 entitled "Reimbursement for Professional Expenses and Fees" is hereby repealed and created as follows:

SEC. 3-1-24 REIMBURSEMENT FOR PROFESSIONAL EXPENSES AND FEES

- (a) Any person requesting the Town to undertake any action, including the review of any engineering plans or specifications, or the review of any other data or information which, at the discretion of the Town Board, is referred to the Town Engineer, Town Attorney, Building/Zoning Specialist or any other professional retained by the Town, shall be liable to the Town for all costs, expenses and fees incurred by the Town which relate to such request.
- (b) Any liability imposed by this Section shall be paid to the Town within thirty (30) days of the date of billing. The Town clerk shall give property owner notice of billing for current services as provided for in this section that they shall have thirty (30) days to pay. Such notice shall also state that within 15 days of the date of the notice, the property owner may request a hearing before the town board regarding the charges against the property. Such notice shall also include an itemized statement of the professional service fees to be charged. Thereafter, if the property owner requests a hearing within the proper time period, the matter shall proceed as described in subsection (d) of this section. If a hearing is not timely requested and the amount is not timely paid in full, the unpaid balance thereof shall be added to the next succeeding real estate tax bill for the real estate owned by any recipient of such services as a special charge against the property in accordance with the provisions of Sec.

66.0627 Wis. Stats. Interest shall be charged for such unpaid services upon such tax bill at the same interest rate as is charged for delinquent real estate taxes.

- (c) The Town Board may, at its option require any person requesting review of plans, specifications, information or other data which will result in the Town incurring costs, expenses or professional fees as a result of a review of those plans, specifications, information or data to file with the Town a cash bond or other appropriate surety to guarantee reimbursement to the Town of all costs, expenses and professional fees which may be incurred by the Town as a result of the request to review the plans, specifications, information or other data.
- (d) *Appeal to town board.* Upon receipt of a timely request for hearing, the town board shall hold a hearing regarding the property charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice, via first class mail, to the property owner. In the event a hearing is requested, no charges shall be placed on the tax roll unless and until such hearing has been held and a decision has been rendered by the town board to approve the charges against the tax roll in whole or in part. If approved only in part, only that part of the charges that are approved may be charged against the tax roll.


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: This ordinance shall take effect upon passage and posting as provided by law.

Passed and approved this 12th day of June, 2014.

TOWN OF WAUKESHA, WI

By:  _____
John Marek, Town Chairman

ATTEST:
 _____
Kathy Nickolaus, Town Clerk-Treasurer