

ORDINANCE NO. 2023-

**AN ORDINANCE TO REESTABLISH EQUITABLE IMPACT FEE
FOR THE PURPOSE OF PLANNING AND FINANCING PARK AND
RECREATIONAL INFRASTRUCTURE TO SERVE NEW DEVELOPMENT**

WHEREAS, the Town of Pittsboro, Hendricks County, Indiana (the "Town"), by and through its Town Council (the "Council"), finds that it is reasonable and necessary to promote and accommodate orderly growth and development and to protect the public health, safety and general welfare of the citizens of the Town by providing for an equitable program to fund the capital costs of new park and recreational infrastructure necessary to serve newly developing areas of the Town; and

WHEREAS, the Town further finds that it is reasonable and necessary to promote the orderly development of the Town by establishing standards by which the Town may require that new development shall pay an impact fee representing the development's proportionate share of the cost of capital costs of new park and recreational infrastructure necessary to serve the new development; and

WHEREAS, the Town finds that new development should not be required to pay a fee for the capital costs of such new park and recreational infrastructure greater than the development's proportionate share of the capital costs of such infrastructure which is needed to serve such development; and

WHEREAS, the Town previously adopted An Ordinance To Reestablish Equitable Impact Fee for the Purpose of Planning and Financing Park and Recreational Infrastructure to Serve New Development on May 1, 2018 and is scheduled to expire on November 1, 2023; and

WHEREAS, the Town has caused to be prepared a comprehensive Zone Improvement Plan (referenced herein as the "Zone Improvement Plan" or the "2023 Pittsboro Park Impact Fee Study"), with the assistance of ELW Consulting, LLC, which is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the cost of implementing the Zone Improvement Plan recommendations in their entirety exceeds (1) the income capacity of the Town through its ad valorem property tax receipts or other tax distributions allocated to park and recreational improvements relative to the chronological needs of the Town for said improvements; (2) the general obligation bond capacity of the Town based upon its net assessed valuation; or (3) the revenue bond potential of the Town based upon any existing means of acquiring revenue related to such improvements; and

WHEREAS, because of the size of the Town, considering both its population and geographic area, as well as the distribution of public and private institutions, services and other facilities through the Town, any park and recreational improvement provides a reasonably uniform benefit to all citizens of the Town equally and provides a functional relationship within the geographic area; and

WHEREAS, it has been the stated objective of the Town that the Zone Improvement Plan should result in the determination of an impact fee which meets the rational nexus test as that test is understood by current applicable case law and statutory law; and

WHEREAS, the Town's Advisory Plan Commission, having given due deliberation to the

Zone Improvement Plan, and having held a public hearing as required by law, has recommended its adoption to the Town Council by a vote of _____ () in favor and _____ () opposed; and

WHEREAS, the Town Council has heretofore appointed the Pittsboro Impact Fee Advisory Committee to advise the Town Council as required by state law; and

WHEREAS, the purpose of this Ordinance is declared not to deter growth, remedy existing infrastructure deficiencies or pay for maintenance or other "non-capital costs".

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Pittsboro, Hendricks County, Indiana, meeting in regular session that:

SECTION 1. APPLICABILITY

A. Except as provided in subsection (B) below, this Ordinance shall apply uniformly to all residential developments:

- (1) that are within an Impact Zone as defined by Section 2 of this Ordinance;
- (2) for which the Town may require a structural building permit; and
- (3) that create a need for new and additional park and recreational infrastructure.

B. This Ordinance shall not apply to an improvement that does not create a need for additional infrastructure, including the erection of a sign, the construction of a fence, the interior renovation of a building not resulting in a change in use, improvements which do not require a structural building permit or the replacement of a destroyed or partially destroyed improvement, provided that the replacement improvement does not create a need for new and additional infrastructure over and above the infrastructure needed by the original improvement prior to the destruction or partial destruction thereof.

SECTION 2. ESTABLISHMENT OF IMPACT ZONE

There is hereby established one (1) park and recreational infrastructure impact zone ("Impact Zone"), the borders of which are co-terminus with the existing corporate borders of Middle Township, Hendricks County, Indiana, and, as they may be extended from time to time through annexation, and, over which the Town and Hendricks County exercise planning and zoning jurisdiction.

SECTION 3. RESPONSIBLE INFRASTRUCTURE AGENCY

The political agency responsible for acquiring, constructing or providing the park and recreational improvements ("Infrastructure Agency") as identified and provided by this Ordinance shall be the Town, acting by and through its Town Council.

SECTION 4. ZONE IMPROVEMENT PLAN

The comprehensive Zone Improvement Plan, as contemplated by Indiana Code § 36-7-4-1318, attached hereto as Exhibit A, is hereby adopted and made a part hereof.

SECTION 5. ESTABLISHMENT OF PARK AND RECREATIONAL IMPACT FEE

Based upon the Zone Improvement Plan previously referred to and which is made a part of this Ordinance, the Town Council determines that the cost per equivalent dwelling unit is in the amount of \$1401.00.

In the event that any parcel of real estate considered in the creation of the Zone

Improvement Plan undergoes a change in use, redevelopment or a modification which requires a structural building permit, and creates a need for new infrastructure, an impact fee will only be assessed for the increase in the burden on infrastructure.

SECTION 6. FEE ASSESSMENT DATE

- A. *Fee Assessment.* Except as provided in subsection (B), if the fee payer requests, an impact fee on a development must be assessed not later than thirty (30) days after the earlier of:
- (1) the date the fee payer obtains an improvement location permit for the development; or
 - (2) the date that the fee payer voluntarily submits to the Town a development plan for the development and evidence that the property is properly zoned for the proposed development. The plan shall be in the form prescribed by the Town's zoning ordinance and shall contain reasonably sufficient detail for the unit to calculate the impact fee.
- B. *Impact Fee Increase.* An impact fee assessed under subsection (A) may be increased only if the structural building permit has not been issued for the development and the requirements of subsection (C) are satisfied. In the case of a phased development, only a portion of an impact fee assessed under subsection (A) that is attributable to the portion of the development for which a permit has not been issued may be increased if the requirements of subsection (C) are satisfied.
- C. Unless the improvement location permit or development plan originally submitted for the development is changed so that the amount of impact on infrastructure the development creates in the Impact Zone is significantly increased, an impact fee assessed under:
- (1) subsection (A)(1) may not be increased for the period of the improvement location permit's validity; and
 - (2) subsection (A)(2) may not be increased for three (3) years.
- D. *Impact Fee Decrease.* An impact fee assessed under subsection (A) shall be decreased if the improvement location permit or development plan originally submitted for the development is changed so that the amount of impact on infrastructure that the development creates in the Impact Zone is significantly decreased. If a change occurs in the permit or plan that results in a decrease in the amount of the impact fee after the fee has been paid, the Town shall immediately refund the amount of the overpayment to the fee payer.
- E. *Failure to Assess Impact Fee.* If the Town fails to assess an impact fee within the period required by subsection (A), the unit may not assess an impact fee on the development unless the development plan originally submitted for the development is materially and substantially changed.
- F. Notwithstanding other provisions in this Ordinance, the Town may not assess an impact fee against a development if:
- (1) an improvement location permit has been issued for all or a part of a development before adoption of this Ordinance that is in compliance with the Indiana Code § 36-7-4-1300 series;
 - (2) the development satisfies all of the following criteria:
 - (a) The development is zoned for commercial or industrial use before January 1, 1991.
 - (b) The development will consist primarily of new buildings or structures. As used in this

clause, the term "new buildings or structures" does not include additions or expansions of existing buildings or structures.

- (c) The parts of the development for which a structural building permit has not been issued are owned or controlled by the person that owned or controlled the development on January 1, 1991.
- (d) A structural building permit is issued for the development not more than four (4) years after the effective date of this Ordinance.
- (e) The development is part of a common scheme of development that:
 - i. involves land that is contiguous;
 - ii. involves a plan for development that includes a survey of the land, engineering drawings and a site plan showing the anticipated size, location and use of buildings and the anticipated location of streets, sewers and drainage;
 - iii. if plan approval is required, resulted in an application being filed with an appropriate office, commission or official of the Town before January 1, 1991 that resulted or may result in approval of any phase of the development plan referred to in item (ii);
 - iv. has been diligently pursued since January 1, 1991;
 - v. resulted before January 1, 1991 in a substantial investment in creating, publicizing or implementing the common scheme of development; and
 - vi. involved the expenditure of significant funds before January 1, 1991 for the provision of improvements, such as roads, sewers, water treatment facilities, water storage facilities, water distribution facilities, drainage systems, or parks, that are on public lands or are available for other development in the area.

G. Notwithstanding any other provision of this Ordinance, this section does not impair the validity of any contract between a unit and a fee payer that was:

- (1) entered into before January 1, 1991; and
- (2) executed in consideration of zoning amendments or annexations requested by the fee payer.

SECTION 7. IMPACT FEE DUE DATE

A. *Due Upon Issuance of Structural Building Permit.* Except as provided by subsection (B), the impact fee imposed pursuant to the terms of this Ordinance shall be due and payable upon the issuance of a structural building permit by the Town. In this regard, it is understood that the structural building permit is synonymous with the term "structural building permit", as that term is used in Indiana Code § 36-7-4-1323, in that the issuance of a structural building permit authorizes the applicant to commence construction activities, structural and otherwise.

- (1) For a phased development, an impact fee shall be prorated for purposes of payment according to the impact of the parcel for which a structural building permit is issued in relation to the total impact of the development. In accordance with Indiana Code § 36-7-4-1324, only the prorated portion of the assessed impact fee is due and payable on the issuance of the permit.
- (2) If an impact fee ordinance is repealed, lapses or becomes ineffective after the assessment of an impact fee on a development but before the issuance of the structural building permit

for part or all of the development:

(a) any part of the impact fee attributable to the part of the development for which a structural building permit has not been issued is void and is not due and payable in the case of a phased development; and

(b) the entire impact fee is void and is not due and payable in the case of a development other than a phased development.

B. *Installment Payment Plan.* The entire fee which is calculated pursuant to the terms of this Ordinance shall be due as per subsection (A) unless the amount of the fee upon calculation is greater than five thousand dollars (\$5,000), in which case an installment plan may be requested by the applicant in accordance with the terms set forth in Indiana Code § 36-7-4-1324 (a), (b), (c) and (d). The Pittsboro Impact Fee Review Board ("Review Board") shall establish specific rules consistent with said code provisions for installment payments. The interest rate on any installment plan or deferred payment shall be at the rate allowed on judgments set forth in the Indiana Code, as amended from time to time. The penalty for late payments, if any, shall be established at the discretion of the Review Board.

SECTION 8. LIEN RIGHTS ESTABLISHED

A. The Town may use any legal remedy to collect an impact fee imposed. The Town must bring an action to collect an impact fee and all penalties, costs and collection expenses associated with a fee not later than ten (10) years after the fee or the prorated portion of the impact fee first becomes due and payable.

B. On the date a structural building permit is issued for the development of property on which the impact fee is assessed, the Town acquires a lien on the real property for which the permit is issued. For a phased development, the amount of the lien may not exceed the prorated portion of the impact fee due and payable in one (1) or more installments at the time the structural building permit is issued.

C. A lien acquired by the Town under this section is not affected by a sale or transfer of the real property subject to the lien, including the sale, exchange or lease of the real property under Indiana Code § 36-1-11.

D. A lien acquired by the Town under this section continues for ten (10) years after the impact fee or the prorated portion of the impact fee becomes due and payable. However, if an action to enforce the lien is filed within the ten-year period, the lien continues until the termination of the proceeding.

E. A holder of a lien of record on any real property on which an impact fee is delinquent may pay the delinquent impact fee and any penalties and costs. The amount paid by the lien holder is an additional lien on the real property in favor of the lien holder and is collectible in the same manner as the original lien.

F. If a person pays an impact fee assessed against any real property, the person is entitled to a receipt for the payment that is: (1) on a form prescribed by the impact fee ordinance; and (2) issued by the Town's Clerk-Treasurer.

SECTION 9. ESTABLISHMENT OF PARK AND RECREATIONAL FUND.

- A. There is hereby reestablished the Park and Recreational Fund of the Town of Pittsboro (the "Fund"). The Fund shall be a non-reverting fund and shall receive any and all sums collected pursuant to this Ordinance to be utilized in connection with the purposes set forth herein. Said Fund shall consist initially of one (1) account based upon the current existence of one (1) Impact Zone. In the event, and only in the event, that an additional Impact Zone is created hereafter, a separate account shall be maintained for each separate Impact Zone established within the Town. Interest earned on the Fund or on any account within the Fund, shall be deposited and maintained within the Fund or the separate account.
- B. The Clerk-Treasurer of the Town shall maintain records of the status of the Fund or any account which may be established therein and shall make an annual report of said Fund and accounts to the Town's Plan Commission and the Town Council. Such report shall be available to the public in general and fee payers, upon request, in particular, and the report shall include (1) the amount of money in accounts established for the Impact Zone; and (2) the total receipts and disbursements of the accounts established for the Impact Zone.
- C. Pursuant to Indiana Code § 36-7-4-1332 (e), the Clerk-Treasurer is designated as the Town official responsible for acting upon refund requests. In order to facilitate refunds when they may be due, the Clerk-Treasurer is directed to identify the purpose of any impact fee paid in order that a refund, if any, may be paid from the Fund or account into which the fee was originally deposited.

SECTION 10. FORM OF RECEIPT

The Clerk-Treasurer of the Town shall issue a receipt for any and all impact fees collected, and the form of such receipt shall be as follows:

Received of [fee payer], this [day] day of [month], [year], the sum of \$[amount] in [full][partial] satisfaction of Park and Recreation Impact Fees due pursuant to Pittsboro Town Council Ordinance No. _____ relating to improvements to be constructed on the real estate described on Exhibit A, attached hereto, made part hereof, and subject to lien rights in favor of the Town of Pittsboro in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$[amount]. This impact fee is dedicated to the creation of the following infrastructure element in accordance with the Zone Improvement Plan:_____.

Clerk-Treasurer, Town of Pittsboro, Indiana

SECTION 11. USE OF IMPACT FEES COLLECTED

Any and all fees collected pursuant to the provisions of this Ordinance may be utilized for the following purposes only by the Infrastructure Agency:

- (a) Providing funds to be utilized by the Town for the purpose of paying the capital costs of new park and recreational infrastructure that is necessary to serve the new development within the corporate limits of the Town and that is identified in the Zone Improvement Plan;
- (b) An amount not to exceed five percent (5%) of the annual collections of the fee to be utilized

for expenses incurred by the Town for the consulting services used to establish this Ordinance;

- (c) To pay any refund due pursuant to the terms of this Ordinance;
- (d) To pay the debt service cost on an obligation issued to provide new park and recreational infrastructure described in subparagraph (a) above.

SECTION 12. INFRASTRUCTURE CONSTRUCTION

- A. The Infrastructure Agency shall, within the time described in the Zone Improvement Plan, construct infrastructure for which:
 - (1) a Zone Improvement Plan has been adopted;
 - (2) an Impact Zone has been established; and
 - (3) an impact fee has been collected.
- B. The Town may amend the Zone Improvement Plan, including the time provided in the Zone Improvement Plan for construction of infrastructure, only if the amount of expenditures provided for the construction of infrastructure in the original plan does not decrease in any year and the benefit to the overall Impact Zone does not decrease because of the amendment.

SECTION 13. IMPACT FEE REFUNDS

- A. A fee payer is entitled to a refund of an impact fee if the Infrastructure Agency:
 - (1) has failed to complete a part of the infrastructure for which the impact fee was imposed not later than:
 - (a) twenty-four (24) months after the time described in Section 12 of this Ordinance; or
 - (b) a longer time as is reasonably necessary to complete the infrastructure if unforeseeable and extraordinary circumstances that are not in whole or in part caused by the unit have delayed the construction;
 - (2) has unreasonably denied the fee payer the use and benefit of the infrastructure during the useful life of the infrastructure; or
 - (3) has failed within the earlier of:
 - (a) six (6) years after issuance of the structural building permit; or
 - (b) the anticipated infrastructure completion date as specified in the Zone Improvement Plan existing on the date the impact fee was collected; to make reasonable progress toward completion of the specific infrastructure for which the impact fee was imposed or thereafter fails to make reasonable progress toward completion.
- B. An application for a refund under subsection (A) must be filed with the Town not later than two (2) years after the right to a refund accrues. The Town shall issue a refund in part or in full or shall reject the application for refund not later than thirty (30) days after receiving an application for a refund.
- C. If the Town approves a refund in whole or in part, the Town shall pay the amount approved, plus interest from the date on which the impact fee was paid to the date the refund is issued. The interest rate shall be the same rate as the rate that the Town provides for impact fee payments paid in installments as per Section 7 of this Ordinance.

- D. If the Town rejects an application for refund or approves only a partial refund, the fee payer may appeal not later than sixty (60) days after the rejection or partial approval to the Review Board, as set forth by Section 16 of this Ordinance, by filing with the Review Board an appeal on a form prescribed by the board. The Review Board shall issue instructions for completion of the form. The form and the instructions must be clear, simple and understandable to a lay person.
- E. The Review Board shall hold a hearing on all appeals for a refund under this section. The hearing shall be held not later than forty-five (45) days after the application for appeal is filed with the Board. The Board shall provide notice of the application for refund to the Infrastructure Agency responsible for the infrastructure for which the impact fee was imposed.
- F. The Review Board holding a hearing under subsection (E) shall determine the amount of a refund that shall be made to the fee payer from the account established for the infrastructure for which the fee was imposed. A refund ordered by the Board must include interest from the date the impact fee was paid to the date the refund is issued at the same rate the Ordinance provides for impact fee payments paid in installments as per Section 7 of this Ordinance.
- G. A party aggrieved by a final decision of the Review Board in a hearing under subsection (E) may appeal to the circuit or superior court of Hendricks County and is entitled to a trial de novo.

SECTION 14. APPEALS

- A. Any fee payer who believes itself to be aggrieved by the calculation of the impact fee may appeal such calculation to the Review Board who shall conduct a hearing with regard thereto. At such hearing, the fee payer shall bear the burden of going forward with the evidence and shall present evidence addressing either of the following propositions:
 - (1) A fact assumption used in determining the amount of the impact fee is incorrect; or
 - (2) The amount of the impact fee is greater than the amount allowed under Indiana Code § 36-7-4-1320, 1321 and 1322.
- B. Upon conclusion of the presentation of evidence, the Review Board shall make a determination within not more than thirty (30) days, upon the facts presented and may reverse, affirm, modify or make such adjustments in the impact fee, as it believes are appropriate under the circumstances, if any, including establishing the amount of an impact fee, a credit, a refund or any combination of fees, credits or refunds.
- C. An appeal under this section must be filed no later than thirty (30) days after the issuance of the structural building permit. The appeal shall be initiated with the filing of a Petition for Review with the Clerk-Treasurer's office, together with a filing fee in the amount of one hundred dollars (\$100). The filing fee shall be refunded in full (1) if the Petition for Review is granted and the impact fee is eliminated, reduced or adjusted by the Review Board, by independent action of the Town, or by a court having jurisdiction, and (2) if the amount of the fee, or the reductions or credits against the fee, is adjusted by the Town, the Review Board or a court; and (3) the body ordering the adjustment finds that the amount of the fee, reductions or credits were arbitrary or capricious.
- D. The Petition for Review shall be in a form calculated to inform the Review Board of the nature of the complaint, the parties to the action and the relief requested. In addition, the petition shall describe the new development on which the impact fee has been assessed, all facts related to

the assessment of the impact fee, and the reasons the petitioner believes that the amount of the impact fee assessed is erroneous or is greater than the amount allowed by the fee limitations set forth in the enabling statute.

- E. The Town shall not deny the issuance of a structural building permit on the basis that the impact fee has not been paid or condition issuance of the permit on the payment of the impact fee. If the impact fee totals one thousand dollars (\$1,000) or less, the Town may require the fee payer to pay the impact fee or initiate an appeal under this section before the structural building permit is issued.

SECTION 15. CREDIT IN LIEU OF PAYMENT: EXEMPTIONS

- A. Credits against impact fees otherwise due shall be allowed pursuant to this section for all infrastructure and improvements constructed or furnished in accordance with Indiana Code § 36-7-4-1313 and Indiana Code § 36-7-4-1335 since January 1, 1989.
- B. As used in this section, "improvement" means an improvement under Indiana Code § 36-7-4-1332 (2) or a site improvement, land or real property interest as follows:
- (1) That is to be used for at least one (1) of the infrastructure purposes specified in Indiana Code § 36-7-4-1309.
 - (2) That is included in or intended to be used relative to an infrastructure type for which the unit has imposed an impact fee in the Impact Zone.
 - (3) That is not a type of improvement that is uniformly required by law or rule for the type of development on which the impact fee has been imposed.
 - (4) That is or will be: (a) public property; or (b) furnished or constructed under requirements of the unit and is or will be available for use by other development in the area.
 - (5) That is beneficial to existing development and future development in the Impact Zone and is not beneficial to only one (1) development.
 - (6) That either: (a) allows the removal of a component of infrastructure planned for the Impact Zone; (b) is a useful addition to the Zone Improvement Plan; or (c) is reasonably likely to be included in a future Zone Improvement Plan for the Impact Zone.
 - (7) That is:
 - (a) constructed, furnished or guaranteed by a bond or letter of credit under a request by an authorized official of the: (i) applicable infrastructure agency; or (ii) unit that imposed the impact fee; or
 - (b) required to be constructed or furnished under a written commitment that: (i) is requested by an authorized official of the applicable infrastructure agency or the unit that imposed the impact fee; (ii) concerns the use or developing of the development against which the impact fee is imposed; and (iii) is made under Indiana Code § 36-7-4-613, 614, or 921.
- C. A fee payer is entitled to a credit against an impact fee if the owner or developer of the development constructs or provides: (1) infrastructure that is an infrastructure type for which the unit imposed an impact fee in the Impact Zone; or (2) an improvement.
- D. A fee payer is entitled to a credit under this section for infrastructure or an improvement that: (1) is constructed or furnished relative to a development after January 1, 1989; and (2) meets

the requirements of this section.

- E. The amount of a credit allowed under this section shall be determined at the date the impact fee is assessed. However, if an assessment is not requested, the amount of the credit shall be determined at the time the structural building permit is issued. The amount of the credit shall be:
- (1) determined by the: (a) person constructing or providing the infrastructure or improvement; and (b) applicable infrastructure agency; and
 - (2) equal to the sum of the following: (a) the cost of constructing or providing the infrastructure or improvement; (b) the fair market value of land, real property interests and site improvements provided.
- F. The amount of a credit may be increased or decreased after the date the impact fee is assessed if, between the date the impact fee is assessed and the date the structural building permit is issued, there is a substantial and material change in the cost or value of the infrastructure or improvement that is constructed or furnished from the cost or value determined under subsection (E). However, at the time the amount of a credit is determined under subsection (E), the person providing the infrastructure or improvement and the applicable Infrastructure Agency may agree that the amount of the credit may not be changed. The person providing the infrastructure or improvement may waive the person's right to a credit under this section.
- G. A fee payer or other person or entity responsible for installing infrastructure or improvements may designate in writing a method of allocating its credits to future fee payers who may be successors in interest to the credits earned by the fee payer or others, as part of the certification provided for above.

SECTION 16. ESTABLISHMENT OF AN IMPACT FEE REVIEW BOARD

The Council hereby establishes an Impact Fee Review Board ("Review Board"), which shall consist of three (3) citizen members appointed by the Council and who shall qualify as follows: one (1) member shall be a real estate broker licensed in Indiana; one (1) member shall be an engineer licensed in Indiana; one (1) member shall be a certified public accountant. A Review Board member may not be a member of the Pittsboro Advisory Plan Commission.

- (a) The term of office of the members of the Review Board shall commence from the date of their appointment and expire five (5) years from the date of appointment.
- (b) At the expiration of the respective terms of each of the Review Board members originally appointed, their respective successors shall be appointed in the same manner as the original appointee, and each such succeeding member shall serve for a term of five (5) years. Each member shall continue to serve until his/her successor is appointed and qualified.
- (c) In the event any person appointed as a Review Board member shall fail to qualify as provided within ten (10) days after the mailing to him/her of notice of his/her appointment, or if any member after qualifying shall die, resign, vacate office, or, in the event a member is unable to hear a petition due to a conflict of interest, a new or temporary member shall be chosen to fill such vacancy in the same manner as provided for the member in respect to whom such vacancy occurred, and the member so chosen and appointed shall serve for the remainder of the vacated term in the event of death, resignation or vacation of office, and in the event of a temporary replacement due to conflict of interest, the member shall serve for the period necessary to dispose of the petition giving rise to the conflict.

- (d) Such Review Board members shall receive no salaries but shall be entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.
- (e) The Review Board shall elect one (1) of its members as President, one (1) as Vice President, each of which officers shall serve from the day of his/her election until the 31st day of January next following his/her election and until his/her successor is elected and qualified.
- (f) The Review Board is authorized to adopt bylaws, rules, regulations and procedures as it may deem necessary for the proper conduct of its proceedings and the carrying out of its duties. Meeting and hearings shall be held at such time as it may determine and upon such notice as it may fix in accordance with the provisions of the bylaws, rules and regulations adopted and Indiana Law.
- (g) A majority of the Review Board shall constitute a quorum and the concurrence of a majority shall be necessary to authorize any action.
- (h) The Review Board shall conduct its review of the amount of an impact fee assessed, the amount of a refund and the amount of a credit using the procedures established in Indiana Code § 36-7-4-1338(c).

SECTION 17. INDIANA LAW

The Town Council of the Town of Pittsboro, Hendricks County, Indiana, specifically acknowledges the existence of a law adopted by the General Assembly of the State of Indiana which regulates the imposition of impact fee ordinances by municipal corporations within the State of Indiana. It is the intent of the Town to comply with such legislation and this Ordinance shall be construed in all respects to be consistent with the Act. The substantive and procedural requirements of Indiana Code § 36-7-4-1300 *et. seq.* shall control in the event of conflicts which are unintended by the Town Council.

SECTION 18. AMENDMENTS AND REVIEW

The impact fee provided for herein is based upon data which, in large part, is subject to inflation and other economic and market forces over which the Town has no control. The Town Council may, therefore, not less than once each year, cause a review to be made by Town staff or consultants as may be required, to determine the continuing validity of the Impact Fee, the Impact Zone and the Zone Improvement Plan. The Town Council shall consider and adopt such amendments as are necessary to cause a substantive compliance with the rational nexus test to continue, to ensure that procedural due process is maintained or enhanced and to ensure that this Ordinance meets the requirements of the Indiana Code § 36-7-4-1300 series. To the extent required by the facts and circumstances, this process shall include the steps necessary to update the Zone Improvement Plan.

SECTION 19. EFFECTIVE DATE AND LIMITATION

- A. This Ordinance shall be in full force and effect six (6) months from and after its passage by the Town Council and after the occurrence of all other actions required by law. All provisions or parts thereof in conflict herewith are hereby repealed.
- B. An impact fee may not be collected under this Ordinance more than five (5) years after the effective date of the Ordinance. However, the Town may adopt a replacement impact fee ordinance if the replacement impact fee ordinance complies with the provisions of the Indiana Code § 36-7-4-1300 series.

SECTION 20. APPROVAL

ADOPTED by the Town Council of the Town of Pittsboro, Indiana on this _____ day of _____, 2023.

THE TOWN COUNCIL OF PITTSBORO, INDIANA

AYE

NAY

BY:

President
Member
Member
Member
Member

ATTEST: _____
Town Clerk/Treasurer

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