

AMENDED ORDINANCE NO: 12-04-24

**AN AMENDED ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF
NOBLESVILLE, INDIANA,
ADOPTING ROAD IMPACT FEES
REPLACING AMENDED ORDINANCE NO. 02-01-21**

WHEREAS, the Common Council (“Council”) of the City of Noblesville, Indiana (“City” or “Noblesville”) has determined that it is reasonable and necessary to promote and accommodate orderly growth and development and to promote the general public health, safety, and general welfare of the citizens of the City by providing for an equitable program to fund the capital costs of new road and street infrastructure necessary to serve newly developing areas of the City; and

WHEREAS, the Council has further determined that it is reasonable and necessary to promote the orderly development of the City by maintaining standards by which the City may require new developments to pay an impact fee representing the development’s proportionate share of the capital costs of new road and street infrastructure necessary to serve the new development; and

WHEREAS, because of the size of the City, considering both its population and geographic area, as well as the distribution of public and private institutions, services, and other facilities throughout the City, road or street improvements generally benefit all citizens and business throughout the City; and

WHEREAS, Ind. Code § 36-7-4-1300 et. seq. (“Act”) authorizes the Council to adopt an impact fee for road and transportation purposes; and

WHEREAS, the Council previously adopted Amended Ordinance 02-01-21, An Amended Ordinance Adopting Road Impact Fees; and

WHEREAS, the Council now desires to provide for a replacement impact fee ordinance as contemplated by Ind. Code § 36-7-4-1340; and

WHEREAS, the Council previously adopted Resolution RC-48-21 amending the City’s thoroughfare plan as part of the City’s Comprehensive Master Plan (“Transportation Plan”); and

WHEREAS, the goals and objections of the Transportation Plan are to provide the following: (i) improve connectivity between key destinations, such as parks, neighborhoods, retail areas, civic centers, employment centers and neighboring communities; (ii) achieve a safe, efficient and convenient transportation network in Noblesville; (iii) ensure the needs of all users, including drivers, pedestrians, cyclists, transit users and those with limited mobility are considered when improvements and additions are made to the transportation network; (iv) achieve a better relationship between land uses to reduce automobile dependency through coordination with planning and development activities; (v) support economic vitality through strategic transportation investments; (vi) promote fiscally sound transportation investments and maximize financial resources; (vii) maintain the quality of the transportation infrastructure to ensure safe operation and the long-term viability of these assets; (viii) promote the use of non-vehicular travel methods and new mobility technology; and (ix) continue to mitigate congestion throughout the City; and

WHEREAS, the City has appointed the an impact fee advisory committee pursuant to Ind. Code § 36-7-4-1312, to assist and advise the City with regard to the re-adoption of an impact fee; and

WHEREAS, the City has A&F Engineering, Co. (“A&F”) to prepare a substantially updated Road Impact Fee Zone Improvement Plan (“Zone Improvement Plan” or “Plan”), which is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the Council finds that the Plan includes the following elements:

- a. a description of the nature and location of existing infrastructure in the impact zone;
- b. a reasonable determination of the current level of service provided within the impact zone;
- c. establishment of a reasonable community level of service for the impact zone;
- d. reasonable estimates relating to the nature and location of development that is expected within the impact zone during the next ten (10) year period;
- e. a reasonable estimate of the nature, location, and costs necessary to provide the community level of service for the developments contemplated in subparagraph (d) hereof, including the timing and sequencing of infrastructure installation;
- f. a general description of the sources and amounts of money used to pay for infrastructure during the previous five (5) years;
- g. provision for completion of the infrastructure that is necessary to raise the current level of service to the community level of service within the next ten (10) year period;
- h. a reasonable estimate of the nature, location, and cost of infrastructure that is necessary to raise the current level of service to the community level of service;
- i. a reasonable estimate of the revenue sources and amount of revenue sources that the City intends to use to raise the current level of service to the community level of service for existing development; and

WHEREAS, prior to adoption of this Ordinance, the Council has and hereby reaffirms the adoption of the Plan as a part of the Noblesville Comprehensive Plan pursuant to Ind. Code § 36-7-4-500 et seq.; and

WHEREAS, the Noblesville Plan Commission, having conducted a public hearing upon, and given due deliberation to the Plan and this Ordinance, has forwarded a favorable recommendation of the Ordinance’s adoption to the Council; and

WHEREAS, it is not the purpose of this Ordinance to deter growth, remedy existing infrastructure deficiencies through new development, or pay for maintenance or other non-capital costs not permitted by the Act; and

WHEREAS, it is the City's objective, through the Plan, to calculate and maintain an impact fee that complies with the Act; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Common Council of the City of Noblesville, Indiana, that:

1. **Incorporation of Recitals.** The above recitals are hereby incorporated herein by reference as though fully set forth and adopted.

2. **Impact Zone.** There is hereby reaffirmed one Infrastructure Impact Zone, the boundaries of which are co-terminus with the corporate boundaries of the City, as such boundaries may be extended from time to time through annexation, and over which boundaries the City exercises planning and zoning jurisdiction ("Impact Zone"). In this regard, the Council specifically finds that the geographical area in the Impact Zone ensures that (a) there is a functional relationship between the components of the Plan in the Impact Zone, (b) the Plan provides a reasonably uniform benefit to all citizens throughout the Impact Zone as of the adoption of this Ordinance, and (c) all areas within the Impact Zone are contiguous, as contemplated by Ind. Code § 36-7-4-1316.

3. **Application.** Except as provided herein, this Ordinance shall apply uniformly to all developments within the Impact Zone and for which the City may require a structural building permit. This Ordinance shall not apply to:

- a. improvements which do not create a need for new and additional infrastructure, including the erection of a sign, construction of accessory structures or fences, or the alteration or renovation of an improvement where the use, or intensity thereof, has not changed;
- b. development meeting the requirements set forth in Ind. Code § 36-7-4-1322(g); and
- c. 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.

4. **Zone Improvement Plan.** The Council hereby finds that the Plan prepared by A&F, and attached as **Exhibit A**, which as read in conjunction with the Thoroughfare Plan constitutes a Zone Improvement Plan as contemplated by and in satisfaction of I.C. § 36-7-4-1318. The Council does hereby adopt the Plan, and affirms its addition to the Noblesville Comprehensive Plan.

5. **Road Impact Fee.** The Council hereby finds that the impact fee recommended in the Plan meets the requirements of the Act, including Ind. Code §§ 36-7-4-1320 & 1321.

Accordingly, the Council hereby adds a new chapter 160, section 160.01 to the City Code and finds that such section is appropriate and as hereby adopted as follows:

CHAPTER 160: CITY IMPACT FEES

SECTION 160.01 ROAD IMPACT FEES

(A) Pursuant to Ordinance 12-04-24, as amended, which adopted the Road Impact Fee based upon the Plan and study by A&F, the City Council determined that the cost per 24-hour trip in the amount of \$583 which shall be divided with Five Hundred Eighteen Dollars (\$518) per trip into the City's General Road Impact Fee Fund and Sixty-Five Dollars (\$65) per trip paid into a Pleasant Street/Corridor Impact Fee Fund. The number of 24-hour trips are to be based upon calculation taken from "Trip Generation Manual" (most recent edition thereof), a study published by the Institute of Transportation Engineers.

(B) Road Impact Fee Schedule per trip

Effective Date	Total	Pleasant St RIF Fund	General RIF Fund
11/1/2024	\$583.00	\$65.00	\$518.00
11/1/2025	\$600.00	\$67.00	\$533.00
11/1/2026	\$618.00	\$69.00	\$549.00
11/1/2027	\$637.00	\$71.00	\$566.00
11/1/2028	\$656.00	\$73.00	\$583.00

(C) If any parcel of real estate considered in the creation of the zone improvement plan undergoes a change in use, redevelopment, or a modification that requires an improvement location permit and/or a structural building permit and creates a need for new infrastructure, an impact fee shall only be assessed for the increase in the burden or infrastructure.

(D) For other specifics on the Road Impact Fee see Ordinance 12-04-24 as amended, which terms are hereby

incorporated by reference as if fully set forth herein.

6. **Credits.** Any person or entity obligated to pay a fee pursuant to the terms of this Ordinance may, with the prior approval of the City, have the option of financing, constructing and dedicating road and street thoroughfare infrastructure instead of making all or part of any Impact Fee payment which may be due, so long as such financing, construction, and dedication are for capital improvements identified in the Zone Improvement Plan; are accomplished pursuant to the thoroughfare improvement plan of the City, are constructed in accordance with the road and street specifications in force for such road or street to be improved in force within the City's jurisdiction at the time of construction, and are in compliance with the Act. Such fee payer, or other person or entity providing the infrastructure or improvement, shall be given credit upon a verified certification from a registered engineer or architect or a contractor of the actual costs of constructing such road and street thoroughfare improvements which are identified in the Zone Improvement Plan. Such certification shall be presented prior to the issuance of the improvement location permit. In the event construction costs of the infrastructure built does not equal the amount of the Impact Fee due pursuant to the calculation provided for in the schedule set forth in Section 5 hereof, the remaining balance shall still be due.

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. Any person or entity otherwise obligated to pay the fee established by this Ordinance whose property was totally or partially destroyed by fire, storm or other causality beyond their control, shall be exempt from said fee if they repair or replace the destroyed structure without creating a burden on infrastructure greater than the burden imposed by the destroyed structure. In the event of such additional burden, the fee shall be calculate based only on the increased burden created by the structure.

7. **Impact Fee Due Upon Issuance of an Improvement Location Permit.** 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 City. It is understood that the term "structural building permit" means a building permit or other similar permits the City issues that are consistent with how that that term is used in Ind. Code § 36-7-4-1323 and the Act, in that the issuance of a structural building permit authorizes the applicant to commence construction activities, structural or otherwise.

If the fee payer requests, an impact fee on a development will be assessed not later than thirty (30) days, or one hundred eighty (180) days for development identified under Ind. Code § 36-7-4-1322(b), after the earlier of:

- a. the date the fee payer obtains an Improvement Location Permit for the development; or
- b. the date that the fee payer voluntarily submits to the City 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 Noblesville Zoning

Ordinance and shall contain reasonably sufficient detail for the City to calculate the impact fee.

For purposes of this section, “assessment” means the act of calculating the amount of the impact fee which shall be due.

For a phased development, the impact fee shall be prorated for purposes of payment according to the impact of the parcel for which an Improvement Location Permit is issued in relation to the total impact of the development.

In the event the total impact fee is greater than five thousand dollars (\$5,000), the fee payer may, at its option but no later than thirty (30) days after the assessment, request payments be made in equal payments according to an installment payment plan. The installment payment plan shall include the following:

- a. a maximum of five thousand dollars (\$5,000) or five percent (5%) of the impact fee, whichever is greater, is payable on the date the Improvement Location Permit is issued for the development on which the fee is imposed;
- b. the first installment is due and payable one (1) year after the date the Improvement Location Permit is issued for the development on which the fee is imposed;
- c. the last installment is due and payable two (2) years after the date the Improvement Location Permit is issued for the development on which the fee is imposed;
- d. the City may impose a reasonable rate of interest, not to exceed the prejudgment rate of interest in effect at the time the interest accrues. If interest is charged, interest accrues only on the portion of the impact fee that is outstanding and does not begin to accrue until the date the Improvement Location Permit is issued for the development or part of the development on which the impact fee is imposed; and
- e. if all or part of an installment is not paid when due and payable, the amount of the installment shall be increased on the first day after the installment is due and payable by a penalty equal to ten percent (10%) of the installment amount that is overdue. If interest is charged, the interest shall be charged on the penalty amount.

An impact fee of five thousand dollars (\$5,000) or less shall be paid in full on the date the Improvement Location Permit is issued for the development on which the impact fee is imposed.

8. **Road Impact Fee Fund And Pleasant Street/Corridor Impact Fee Fund.** There is hereby reaffirmed the Road Impact Fee Fund (“Fund”) and the Pleasant Street/Corridor Impact Fee Fund of the City. Each Fund shall be a non-reverting fund and shall receive impact fees collected pursuant to this Ordinance or the Act, to be utilized in connection with the purposes set forth herein. Said Funds shall consist initially of one account for the Road Impact Fee based upon the current existence of one Impact Zone; and one account for the Pleasant Street/Corridor Impact Fee. In the event that an additional Impact Zone is created thereafter, a separate account shall be maintained for each separate Impact Zone established within the City. Interest earned on the Funds or on any account with the Funds shall be deposited and maintained

within the Funds or the separate account. The Noblesville City Controller shall maintain records of the status of the Funds and shall make an annual report of said Funds to the Noblesville Plan Commission and Council.

Pursuant to Ind. Code § 36-7-4-1332(e), the City Controller is designated as the City official responsible for acting on refund requests.

9. **Lien Rights.** Pursuant to Ind. Code § 36-7-4-1325, the City acquires a lien against the real estate which is the subject of the impact fee on the date an Improvement Location Permit is issued for such property. Upon adoption, this Ordinance may be recorded as additional constructive notice of the lien rights of the City with respect to a parcel of real estate which is the subject of an impact fee. The City may, in its discretion, file a specific instrument setting forth its lien rights with respect to a parcel of real estate which is the subject of an impact fee. Recording this Ordinance or any instrument is not a prerequisite to exercising the City's lien rights pursuant to the Act.

10. **Form of Receipt.** The City Controller shall issue a receipt for any impact fee payment in the following form or its equivalent:

"Received of _____ (fee payer), this ____ day of _____ the sum of \$ _____ in (full) (partial) satisfaction of Road Impact Fees due pursuant to Ordinance No. _____ relating to improvements to be constructed on real estate described on Exhibit A, attached hereto, made part hereof, and subject to lien rights in favor of the City of Noblesville in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$ _____. The impact fee is dedicated to the creation of the following infrastructure elements in accordance with the Zone Improvement Plan: _____"

Controller, City of Noblesville, IN

11. **Use of Impact Fees Collected Pursuant to this Ordinance.** An impact fee collected pursuant to the provisions of this Ordinance may be utilized by the City only for the following purposes, acting by and through its Council, which for the purposes of this Ordinance is identified as the infrastructure agency contemplated by Ind. Code § 36-7-4-1317:

- a. Providing funds to be utilized by the City for the provision of a new road and transportation infrastructure that is needed to serve the new development in the Impact Zone and that is identified in the Plan;
- b. An amount not to exceed Five Percent (5%) of the annual collections of the fee may be utilized for expenses incurred by the City for the consulting services used to establish this Ordinance;
- c. To pay a refund due pursuant to the terms of this Ordinance or the Act;
- d. To pay the debt service cost of an obligation issued to provide new road and transportation infrastructure described in sub-paragraph (a) above.

12. **Noblesville Impact Fee Review Board.** The Council hereby re-establishes an Impact Fee Review Board ("Board") as set forth in §§ 34.110 to 34.114 of the City Code of Ordinances as if fully set forth herein.

13. **Appeals.** Any fee payer who believes itself to be aggrieved by the calculation of the impact fee may appeal from such calculation to the Noblesville Impact Fee Review Board as set forth in the Act, and the Noblesville Impact Review Board shall act upon and hear such appeal as provided in the Act. The fee payer shall bear the burden of going forward with the evidence and shall present evidence addressing either of the following:

- a. that a fact assumption used in determining the amount of the impact fee is incorrect; or
- b. that the amount of the impact fee is greater than the amount allowed under Ind. Code § 36-7-4-1320, 1321, and 1322.

An appeal under this section must be filed not later than thirty (30) days after the issuance of the Improvement Location Permit. The appeal shall be initiated with the filing of a Petition for Review with the Noblesville City Clerk's Office together with a filing fee in the amount of one hundred dollars (\$100.00).

The Petition for Review shall be in a form calculated to inform the Noblesville Impact Fee Review Board of the nature of complaint, the parties to the action, and 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 limitation set forth in the Act.

The City shall not deny the issuance of an Improvement Location 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. However, if the impact fee totals one thousand dollars (\$1,000.00) or less, the City may require the fee payer to pay the impact fee or initiate an appeal under this section before the Improvement Location Permit is issued.

14. **Conflicts with the Act.** It is the intent of the City to comply with the Act, and this Ordinance shall be construed in all respects to be consistent with the Act. The substantive and procedural requirements of Ind. Code § 36-7-4-1300 et seq. shall control in the event of conflicts, which are unintended by the Council. Any provisions of the Act required to be included in or a part of this Ordinance are hereby deemed incorporated herein and adopted as a part hereof.

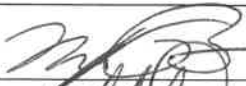
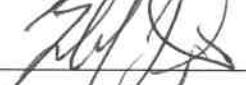
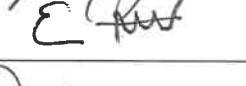





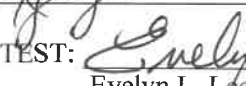
15. **Effective Date and Expiration.** This Ordinance shall be in full force and effect six (6) months after its adoption by the Council in accordance with Ind. Code § 36-7-4-1340 or November 1, 2024, whichever date is later. Until said date, Amended Ordinance 02-01-21 shall remain in full force and effect. However, the Road Impact Fee assessed for any Building Permits described in a Development Agreement and approved by the City Council prior to August 1, 2024, and paid prior to November 1, 2025, shall be assessed and paid in the amount assessed on the date of passage of this Ordinance. This Ordinance shall expire five (5) years after its effective date as required by Ind. Code § 36-7-4-1340, unless action is undertaken to extend this Ordinance consistent with Indiana law.

16. **Construction of Clause Headings.** The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit, or extend the scope or intent of the clause to which they appertain.

17. **Repeal of Conflicting Ordinance Provisions.** On the effective date of this Ordinance, the provisions of all other City ordinances in conflict with the provisions hereof, if any, are of no further force or effect and are hereby repealed to the extent of such conflict.

18. **Severability.** If any part of this Ordinance shall be held as invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Approved on this 23rd day of April, 2024 by the Common Council of the City of Noblesville, Indiana:

AYE		NAY	ABSTAIN
	Mark Boice		
	Michael J. Davis		
	Evan Elliott		
	David M. Johnson		
	Darren Peterson		
	Pete Schwartz		
	Aaron Smith		
	Todd Thurston		
	Megan G. Wiles		

ATTEST: Evelyn L. Lees
Evelyn L. Lees, City Clerk

Presented by me to the Mayor of the City of Noblesville, Indiana, this 23rd day of April, 2024 at 8:10 P.M.

Evelyn L. Lees
Evelyn L. Lees, City Clerk

Chris Jensen
Chris Jensen, Mayor

MAYOR'S APPROVAL

4-23-24
Date

MAYOR'S VETO

Chris Jensen, Mayor

Date

ATTEST: Evelyn L. Lees
Evelyn L. Lees, City Clerk



EXHIBIT A