

Ordinance No. 14-20

AN ORDINANCE ESTABLISHING CODIFIED ORDINANCE CHAPTERS 961, 962, 963, 964 AND 965 ESTABLISHING DEVELOPMENT IMPACT FEE PROCEDURES AND IMPOSING IMPACT FEES ON NEW LAND DEVELOPMENT IN THE VILLAGE OF PLAIN CITY FOR PROVIDING NEW ROADWAYS AND RELATED TRAFFIC SYSTEM FACILITIES, SANITARY SEWER SYSTEM IMPROVEMENTS AND INFRASTRUCTURE, AND PUBLIC SAFETY VEHICLES AND EQUIPMENT; PROVIDING FOR PLACEMENT OF REVENUE COLLECTED, EXEMPTIONS AND CREDITS, AND USE OF DEDICATED IMPACT FEE FUNDS.

WHEREAS, the Village Council ("Council") of the Village of Plain City ("Village") recognizes that additional growth and development within the Village will result in strain on the Village's infrastructure and services available to its existing residents; and

WHEREAS, the Village must expand and upgrade its road and sanitary sewer systems as well as make capital improvements to its public safety service in order to maintain current levels of service if new development is to be accommodated without decreasing the levels of service. This must be done in order to promote the public health, safety and welfare; and

WHEREAS, the use of impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of capital facilities and improvements necessary to accommodate such development; and

WHEREAS, the fees established in this legislation are derived from, are based upon and do not exceed the costs of providing rights-of-way, road and roadway construction, road improvements, traffic control, sanitary sewer construction and improvements, and capital improvements for public safety in connection with and necessitated by the new land developments for which the fees are levied; and

WHEREAS, the report entitled "Report for Village of Plain City, Ohio Impact Fee Methodology and Costing Report" dated January, 2020, attached hereto as Exhibit A and incorporated herein by reference, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the traffic and sanitary sewer system and the need for and the costs of additional rights-of-way, road and roadway construction, road improvements, sanitary sewer construction and improvements, capital improvements for roadways and sanitary sewer in connection with and necessitated by new developments; and

WHEREAS, the aforementioned study left to Village Council the final determination for impact fee rates associated with sanitary sewer system improvement upon such time as Council determined an assessment of necessary wastewater treatment plant improvements that are planned to commence in 2021.

WHEREAS, the Village's engineering consultant designing the planned improvements to the wastewater treatment plant has provide a preliminary cost estimate of approximately \$7 million

of which Village Council has determined that approximately \$4 million of the project's total estimated cost is attributed to future growth needs, and

WHEREAS, Council has further studied and analyzed the capital improvement expenses necessary to support the Village's public safety services and has compiled its analysis in the report entitled "Public Safety Capital Analysis" attached hereto as Exhibit B; and,

WHEREAS, Council has determined that the fees recommended in Exhibits A and B are fair and reflect the proportionate share of the cost of capital facilities and improvements necessary to accommodate new development in the Village, and

WHEREAS, Council has confirmed that the recommended fees do not include costs associated with supplies, salaries, benefits, training, repairs, or administrative costs associated with new development in the Village; and

WHEREAS, Council desires to adopt Chapter 961 of the Village Codified Ordinances, attached hereto as Exhibit C to establish uniform and consistent procedures for the development, implementation, imposition, calculation, collection, deposit, expenditure and administration of all development impact fees adopted by the Village and to be consistent with and facilitate the implementation of the goals, objectives and policies of the Village of Plain City's Comprehensive Plan; and

WHEREAS, Council desires to adopt Chapter 962 of the Village Codified Ordinances, attached hereto as Exhibit D, to establish the imposition of roadway development impact fees consistent with the purpose of this legislation and in accordance with the recommendations set forth in Exhibit A; and

WHEREAS, Council desires to adopt Chapter 963 of the Village Codified Ordinances, attached hereto as Exhibit E, to establish the imposition of sanitary sewer system development impact fees consistent with the purpose of this legislation and in accordance with the recommendations set forth in Exhibit A; and,

WHEREAS, Council desires to adopt Chapter 964 of the Village Codified Ordinances, attached hereto as Exhibit F, to establish the imposition of public safety development impact fees consistent with the purpose of this legislation and in accordance with the recommendations set forth in Exhibit B; and,

WHEREAS, Council desires to adopt Chapter 965 of the Village Codified Ordinances, attached hereto as Exhibit G, to establish the fee schedule for the imposition of the respective impact fees and in accordance with the recommendations set forth in Exhibits A and B.

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Plain City, Ohio, a majority of the members elected or appointed thereto concurring, as follows:

Section 1. Council hereby adopts Village Codified Ordinance Chapter 961 attached hereto as Exhibit C establishing the procedures for the development, implementation,

imposition, calculation, collection, deposit, expenditure and administration of all development impact fees adopted by the Village.

- Section 2.** Council hereby adopts Village Codified Ordinance Chapter 962 attached hereto as Exhibit D establishing the imposition of roadway development impact fees.
- Section 3.** Council hereby adopts Village Codified Ordinance Chapter 963 attached hereto as Exhibit E establishing the imposition of sanitary sewer system development impact fees.
- Section 4.** Council hereby adopts Village Codified Ordinance Chapter 964 attached hereto as Exhibit F establishing the imposition of public safety development impact fees.
- Section 5.** Council hereby adopts Village Codified Ordinance Chapter 965 attached hereto as Exhibit G establishing the fee schedule for imposition of the development impact fees set forth in Village Codified Ordinances 962, 963 and 964.
- Section 6.** This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.
- Section 7.** This Ordinance shall take effect at the earliest time allowed by law.

Passed: September 14, 2020.

Attest: Renee Sonnett
Village Fiscal Officer

Mayor

First reading: August 10, 2020.

Second reading: August 24, 2020.

Third reading: September 14, 2020. Vote: 6 yea ___ nay ___ abstain

Certificate of Publication

The undersigned, being Village Fiscal Officer of the Village of Plain City, hereby certifies that the foregoing was published by posting for 15 days as required by law and in accordance with Section

123.01 of the Codified Ordinances. The posting was done from 10.23, 2020 to 12.31, 2020 at the Office of the Fiscal Officer located at 213 South Chillicothe Street; the Plain City Public Library located at 305 W. Main Street; the Security National Bank located at 105 W. Main Street; the Richwood Banking Co. located at 601 W. Main Street; all being in the Village of Plain City, Ohio and the Village of Plain City Website at www.plain-city.com.

Date: October 23, 2020

Renee Sonnett
Village Fiscal Officer

EXHIBIT C

CHAPTER 961. - DEVELOPMENT IMPACT FEE PROCEDURES

961.01. - Title.

This Ordinance shall be known and may hereafter be referred to as the "The Village of Plain City Development Impact Fee Procedures Ordinance" (hereinafter "Procedures Ordinance").

(Ord. _____. Passed _____)

961.02. - Purpose and intent.

The purposes and intent of this Ordinance are as follows:

- (a) To establish uniform and consistent procedures for the development, implementation, imposition, calculation, collection, deposit, expenditure and administration of all development impact fees adopted by the Village.
- (b) To be consistent with, and to facilitate the implementation of, the goals, objectives and policies of the Village of Plain City Comprehensive Plan, and all elements thereof relating to the provision of public facilities needed to meet the demands created by new growth and development, and relating to appropriate, fair and equitable cost sharing of such public facilities.
- (c) To ensure that new development pays, at the time of development approval or issuance of a zoning permit, a proportionate share of the cost of system improvements needed to serve the projected new development.
- (d) To ensure that all applicable legal standards and criteria are properly incorporated and will be met by the Village.

(Ord. _____. Passed _____)

961.03. - Definitions.

The words or phrases used in Sections 961.01 through 961.11 shall have the meaning prescribed in the Village of Plain City Ordinances, as amended except as otherwise provided in Appendix A below.

(Ord. _____. Passed _____)

961.04. - Term; amendments; annual report.

- (a) Term. These development impact fee Procedures shall remain in effect unless and until repealed, amended or modified by the Village Council in accordance with applicable State law and Village ordinances and resolutions.

- (b) Amendments. This Ordinance, and any ordinance adopting impact fees for any particular category of capital improvements pursuant to this Ordinance, may be amended from time to time by the Village Council, provided, however, that no such amendment shall be adopted without a written report detailing the reasons and need for the amendment; and further provided however that no such amendment shall be undertaken to any particular category of capital improvements pursuant to this Ordinance if the same would have the result of increasing the fee prescribed thereunder if the fee prescribed thereunder had been previously increased twice by an amendment which did not include the review of substantially all of the criteria set forth in subsection (c) hereof unless the then proposed amendment includes such a review.
- (c) Annual Review and Report. At least once every year not later than March 1st of each year, beginning in 2021, the Village Administrator or his/her designee shall coordinate the preparation and submission of an Annual Report to the Village Council describing the amount of all development impact fee funds collected, appropriated and spent, by public facility and by service area, during the preceding fiscal year.
- (1) The Annual Report may include any or all of the following:
- A. Recommendations for amendments, if appropriate, to these procedures or to specific ordinances adopting impact fees for particular capital improvements;
 - B. Proposed changes to the Comprehensive Plan or plan elements and/or an applicable Capital Improvements Program, including the identification of additional capital improvement projects anticipated to be funded wholly or partially with impact fees;
 - C. Proposed changes to the boundaries of impact fee districts, if applicable;
 - D. Proposed changes to impact fee schedules as set forth in the ordinances imposing and setting impact fees for particular capital improvements;
 - E. An automatic annual impact fee adjustment based on the cost index published by the Engineering-News Record.
 - F. Proposed changes to level of service standards for particular categories of capital improvements;
 - G. Proposed changes to any impact fee calculation methodology;
 - H. Proposed changes to the population, housing, land use, persons per household or non-residential development projections included in the Impact Fee Report and upon which the impact fee amounts have been determined;
 - I. Other data, analysis or recommendations as the Village Administrator or his designee may deem appropriate, or as may be requested by the Village Council.

- (2) The Annual Report may additionally include any or all of the following on an annual basis:
- A. Number of zoning permits issued by type of residential or non-residential development;
 - B. Square footage (gross floor area) of non-residential development, by type;
 - C. Total amount of impact fees collected, by category of capital improvement and by land use type;
 - D. The amount of expenditures made from the impact fee account or subaccounts and the purpose for which the expenditure was made, i. e., the description, type and location of the capital improvement project;
 - E. When the capital improvement project was initiated and when it was (or will be) completed;
 - F. Whether additional impact fee funds will be appropriated for the same project in the future;
 - G. Whether supplemental non-impact fee funds have been used for the project and, if so, how much and what percentage;
 - H. The service area of the capital improvement project;
 - I. The total estimated cost of the capital improvement project and the portion funded with impact fees;
 - J. Whether the capital improvement project is in the Village's current Annual Budget or capital improvements program;
 - K. The estimated useful life of the capital improvement project;
 - L. The extent to which the capital improvement project is needed to serve new land development;
 - M. The extent to which the capital improvement project is needed to maintain the existing level of service (LOS) standard and;
 - N. Such other facts as may be deemed relevant by the Village Council.
- (3) The Village Administrator or his/her designee shall submit the Impact Fee Annual Report to the Village Council, which shall receive the Annual Report and which may take such actions as it deems appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and/or public hearings.

(Ord. _____. Passed _____)

961.05. - Applicability.

- (a) Development Subject to Impact Fees. Impact fees shall be imposed on new land development in the Village which, for purposes hereof, may be divided into impact fee districts by the Village Council. All development, both residential and

nonresidential, as defined in Appendix A, attached hereto and incorporated herein by reference, may be subject to the imposition of one (1) or more development impact fees for particular public facilities; provided, however, that the type and nature of the development project must create an additional demand and need for system improvements for the public facility in order to maintain the adopted level of service (LOS) standard, and is not otherwise exempt.

- (b) **Municipal Planning Areas.** Impact fees imposed by the Village shall, if necessary and appropriate, be collected by other municipalities or by the County on new land development within the Village's municipal planning area, but outside of the Village limits, pursuant to an intergovernmental agreement which provides that the impact fees collected be transferred to the appropriate Village fund for expenditure in accordance with the terms of this Ordinance.
- (c) **Development Not Subject to Impact Fees.** The following structures and activities, which might otherwise be construed as development are exempt from the imposition of development impact fees:
 - (1) **Previously-issued zoning permits or development plan approvals.** No impact fee shall be imposed on land development for which a zoning permit and/or a development plan approval has been issued prior to January 1, 2021. In the event that a zoning permit and/or development plan approval has been issued prior to January 1, 2021, but construction has not commenced within 6 months from the date of issuance of the permit, then the impact fee shall be imposed and paid prior to the issuance of an occupancy permit.
 - (2) **Previous Payment of Impact Fees.** Subject to the requirements of Section 961.06 of this Ordinance, no impact fees shall be due at a later stage of the development permit or approval process if impact fees have been paid for such category of capital improvements at an earlier stage in the development permit or approval process, unless said fees were reimbursed to the original payor or subsequent property owner.
 - (3) **No net increase in dwelling units.** No impact fee shall be imposed on any new residential development which does not add a new dwelling unit (service unit).
 - (4) **No net increase in non-residential square footage.** No impact fee shall be imposed on any new non-residential development which does not add square footage, unless the new non-residential development increases the demand for capital improvements (service units) for which impact fees are being imposed.
 - (5) **Other uses.** No impact fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a zoning permit is required, which does not result in an increase in the demand for capital improvements (service units). Except upon a determination by the Village Administrator pursuant to Section 961.06(b)(4), no impact fee shall be imposed on any new development or use not listed in Sections 962.04, 963.04, or 964.04.

- (6) New land developments which are the subject of a Development Agreement containing provisions in conflict with this Ordinance, but only to the extent of the conflict or inconsistency.
- (d) Effect of Imposition/Payment of Development Impact Fees on Village Planning and Zoning Code.
 - (1) The payment of development impact fees shall not entitle the fee payor to development approval nor a zoning permit unless all other applicable requirements, standards and conditions of the Village Zoning Ordinance and all other applicable Village codes, ordinances and/or procedures, have been met. Such other requirements, standards and conditions are independent of the requirement for payment of a development impact fee.
 - (2) Neither this Ordinance nor a specific development impact fee ordinance shall affect, in any manner, the permissible use of property, the permitted density/intensity of development, the applicable design and improvement standards, or any other applicable standards or requirements of the Village of Plain City Code or Zoning Ordinance which shall be operative and which shall remain in full force and effect without limitation.
- (e) Exclusive Method to Impose Development Impact Fees. Requirements for developers to pay, as a condition of development approval or issuance of a development permit, in whole or in part, for system improvements may be imposed by the Village only by way of development impact fees imposed pursuant to this Ordinance and individual public facility development impact fee ordinances adopted by the Village.
- (f) Other Methods of Requiring Capital Improvements. Notwithstanding the provisions of this Ordinance, the Village retains its power, to the extent authorized, to impose fees, to require contributions and to require dedication of land for capital improvements.

(Ord. _____. Passed _____)

961.06. - Imposition, calculation; collection of development impact fees; offsets and refunds.

- (a) Imposition. Impact fees shall be calculated by the Village Administrator at the time of application for a zoning permit and shall be paid by the applicant prior to the issuance of a zoning permit.
- (b) Calculation.
 - (1) Upon receipt of an application for a zoning permit, the Village Administrator shall determine:
 - A. Whether it is a residential or non-residential use;
 - B. The specific category (type) of residential or non-residential development, if applicable;

- C. If residential, the number of new dwelling units;
 - D. If non-residential, the number of new or additional square feet of gross floor area (rounded up to the nearest square foot) and the proposed use; and
 - E. The impact fee district in which the new land development is located (if applicable).
- (2) Upon receipt of an application for a zoning permit, the Village Administrator shall determine whether it is for a change in use. In such cases, the impact fee due shall be based only on the incremental increase in the fee for the additional service units added by the change in use.
- (3) After making these determinations, the Village Administrator shall calculate the demand for the capital improvements (service units) added by the new land development for each capital improvements category for which an impact fee is being imposed and calculate the applicable impact fee by multiplying the demand (service units) added by the new development by the amount of the applicable impact fee per service unit, incorporating any applicable offset if set forth in the particular impact fee calculation methodology.
- (4) If the type of land use proposed for land development is not expressly listed in the particular impact fee ordinance and schedule, pursuant to a generally-accepted land use classification system and methodology, the Village Administrator shall:
- A. Identify the most similar land use type listed and calculate the impact fee based on that land use; or
 - B. Identify the broader land use category within which the specified land use would fit and calculate the impact fee based on that land use category; or
 - C. At the option of the applicant, or the Village, determine the basis used to calculate the fee pursuant to an independent impact analysis of service units added. The independent fee calculation shall comply with the following:
 - 1. The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Village Administrator, and, if appropriate, other Village staff or officials, prior to payment of the fee.
 - 2. The independent impact analysis shall measure the impact (in service units) that the proposed development will have on the particular category of capital improvements at issue, and shall be based on the same methodologies used in the impact fee calculation methodology report, and shall be supported by professionally acceptable data and assumptions.
 - 3. After review of the independent impact analysis submitted by the applicant, the Village Administrator shall accept or reject the analysis and provide written notice to the applicant of its decision on a form

provided for such purpose within thirty (30) days. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.

- (5) An applicant may request a non-binding estimate of impact fees due for a particular land development at any time by filing a request on a form provided for such purpose by the Village; provided, however, that such estimate may be subject to change when a formal application for a zoning permit for land development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and shall in no way bind the Village nor preclude it from making amendments or revisions to any provisions of this Ordinance, the specific impact fee implementing ordinances or the impact fee schedules. The Village's non-binding estimate will not constitute a final decision and may not be appealed pursuant to Section 961.08, herein.
 - (6) The calculation of impact fees due from a multiple-use land development shall be based upon the aggregated demand (in service units) for each category of capital improvements generated by each land use type in the land development.
 - (7) The calculation of impact fees due from a phased land development shall be based upon the demand (in service units) generated by each specific land use within the phase of development for which a separate zoning permit is requested.
 - (8) Impact fees shall be calculated based on the impact fee amount in effect at the time of application for a zoning permit.
 - (9) Any appeal from a final decision of a Village official made pursuant to this subsection (b), shall be to the Village Council pursuant to Section 961.08, herein.
- (c) Offsets.
- (1) Offsets against the amount of an impact fee due from a land development shall be provided for, among other things, contributions made or to be made in the future in cash, or by dedication of land or by actual construction of all or part of a capital improvement by the affected property owner for capital improvements meeting or exceeding the demand generated by the land development and the contribution is determined by the Village to be an acceptable substitute for the cost of capital improvements which are included in the particular impact fee calculation methodology and/or the Village's capital improvement plan. The amount of the offset shall be determined as follows:
 - A. Land dedications. Land dedications shall be valued at one hundred percent (100%) of the most recent assessed value for the land to be dedicated or the land's fair market value based on its appraised value on the date of transfer to the Village. Appraisals shall be conducted by an appraiser certified by the State of Ohio, selected and paid for by the applicant. Appraisals shall be performed using generally-accepted appraisal practices. If the Village disagrees with the appraisal, the Village may

engage another appraiser at the Village's expense and the offset shall be equal to the average of the two appraisals. If either the applicant or the Village rejects the average of the two appraisals, a third may be obtained (costs to be shared by the parties) and shall be binding on the parties. The third appraiser shall be selected by the first two appraisers.

B. Capital Facilities. Offsets for capital facilities constructed by the applicant shall be based upon the actual cost of construction as verified by receipts.

(2) Based upon the recommendation of the Planning and Zoning Commission, the amount of the excess contribution shall be determined by the Village Council upon receipt of an application form requesting an offset; provided, however, that (i) the Village will make no reimbursement for excess contributions unless and until the particular capital improvements fund has sufficient revenue to make the reimbursement without jeopardizing the continuity of the Village's capital improvements program and (ii) the excess contribution may not be transferred or credited to any other type of impact fees calculated to be due from that development for other type of capital improvements. The determination of the eligibility for and the amount of the credit shall be made by the Village Council, based upon the recommendation of the Planning Commission, on a form provided for such purposes. Appeals from a final decision of the Village Council pursuant to this subsection (c) shall be to the Court of Common Pleas for Plain City County.

(3) No offset shall be allowed unless the Village Council has approved the contribution or expenditure before it is made.

(4) Offsets for dedication of land or provision of capital improvements shall be applicable only as to impact fees imposed for the same types of capital improvements which are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a capital improvement exceeds the impact fee due for the type of capital improvement, the excess value may not be transferred to impact fees calculated to be due from the applicant for other types of capital improvements. Offsets may, however, be transferred to other applicants within the same development for the same type of capital improvement.

(d) Refunds.

(1) Eligibility for refunds.

A. Expiration or Revocation of Zoning Permit. An applicant who has paid an impact fee for a land development for which the necessary zoning permit has expired or for which the zoning permit has been revoked prior to construction shall be eligible to apply for a refund of impact fees paid on a form provided by the Village for such purposes.

B. Failure of Village to Appropriate Impact Fee Funds Within Time Limit. The current property owner may apply for a refund of impact fees paid by an applicant if the Village has failed to appropriate the impact fees collected from the applicant within the time limit established herein. The refund

application shall be made on a form provided by the Village for such purposes.

- C. Abandonment of Development or Reduction in Impact After Initiation of Construction. An applicant who has paid an impact fee for a new land development for which a zoning permit has been issued and pursuant to which (i) construction has been initiated, but which construction is abandoned prior to completion or (ii) has a reduced number of dwelling units or nonresidential square footage upon issuance of a certificate of occupancy shall be eligible for a refund. No refund shall be available to abandoned projects unless the uncompleted structure is completely demolished.
- (2) An administrative fee established by the Fee Schedule in Section 965.02, shall be deducted from the amount of any refund granted and shall be retained by the Village in the appropriate impact fee account to defray the administrative expenses associated with the processing of a refund application.
 - (3) Except as provided herein, refunds shall be made only to the current owner of property on which the new land development was proposed or occurred.
 - (4) Processing of applications for a refund. Applications for a refund shall be made on a form provided by the Village for such purposes and shall include all information required, as appropriate. Upon receipt of a complete application for a refund, the Village Administrator shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the Village Administrator.
 - (5) Applications for refunds due to abandonment of a new land development prior to completion shall be made on forms provided by the Village and shall be made within sixty (60) days following expiration or revocation of the zoning permit. The applicant shall submit evidence that the applicant is the property owner or the duly designated agent of the property owner, the amount of the impact fees paid by capital improvements category and receipts evidencing such payments, and documentation evidencing the expiration or revocation of the zoning permit or approval of demolition of the structure pursuant to a valid Village-issued demolition permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the zoning permit or demolition of the structure shall constitute a waiver of entitlement to a refund. No interest shall be paid by the Village in calculating the amount of the refunds.
 - (6) Applications for refunds due to the failure of the Village to appropriate impact fees collected from the applicant within the time limits established herein shall be made on forms provided by the Village and shall be made within one (1) year following the expiration of such time limit. The applicant shall submit (i) evidence that the applicant is the property owner or the duly designated agent of the property owner, (ii) the amount of the impact fees paid by capital improvements category and receipts evidencing such payments, and (iii)

description and documentation of the Village's failure to appropriate impact fee funds for relevant capital improvements.

- (7) The Village may, at its option, make refunds of impact fees by direct payment, by offsetting such refunds against other impact fees due for the same category of capital improvements for new land development on the same property, or by other means subject to agreement with the property owner.
- (8) Any appeal from a final decision of a Village official made pursuant to this subsection (d) shall be to the Village Council pursuant to Section 961.08, herein.

(e) Collection.

- (1) The Village Administrator shall collect all applicable impact fees at the time of issuance of a zoning permit and shall issue a receipt to the applicant for such payment unless:
 - A. The applicant is determined to be entitled to a full offset; or
 - B. The applicant has been determined to be not subject to the payment of an impact fee; or
 - C. The applicant has filed an appeal and a bond or other surety in the amount of the impact fee, as calculated by the Village and approved by the Village Attorney and Finance Director, has been posted with the Village.
- (2) The Village Administrator shall collect an impact fee at the time of issuance of a zoning permit even if impact fees were paid by the applicant at an earlier time in the development permit or approval process if the amount of the impact fees have increased since such prior approval. Except as provided for in Section 961.05(c), the applicant shall only be liable for the difference between the impact fees paid earlier and those in effect at the time of issuance of the subsequent zoning permit.

(f) Enforcement.

- (1) The Village may withhold the requested development approval or development permit, including but not limited to a certificate of occupancy, or a zoning permit if no certificate of occupancy is required, until the development impact fee is paid in full.
- (2) The Village may withhold utility services to the applicable development project until the development impact fee is paid in full.
- (3) The Village may impose a lien for failure of the developer to make timely payment of a development impact fee.

(Ord. _____. Passed _____)

961.07. - Establishment of impact fee accounts; appropriation of impact fee funds.

- (a) **Impact Fee Accounts.** An impact fee account shall be established by the Village for each category of capital improvements for which impact fees are imposed. Such account shall clearly identify the category, account, or fund for which the impact fee has been imposed. Subaccounts may be established for individual impact fee districts. All impact fees collected by the Village shall be deposited into the appropriate impact fee account or subaccount, which shall be interest bearing. All interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other Village funds, over time. The Village shall establish and implement necessary accounting controls to ensure that the impact fee funds are properly deposited, accounted for and appropriated in accordance with this Ordinance and any other applicable legal requirements.
- (b) **Appropriation of Impact Fee Funds.**
- (1) Impact fee funds may be appropriated for capital improvements and capital improvement expenditures and for the payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the Village or other applicable local governmental entities to finance such capital improvements. All appropriations from impact fee accounts shall be detailed on a form provided for such purposes and filed with the Village Fiscal Officer.
 - (2) Impact fees shall be appropriated only:
 - A. For the particular category of capital improvements for which they were imposed, calculated and collected;
 - B. Within the impact fee district where collected unless the impact fee funds will be appropriated for a capital improvement necessitated by or serving the new land development as provided herein; and
 - C. Within five (5) years of the beginning of the Fiscal Year immediately succeeding the date of collection, unless such time period is extended as provided herein.
 - (3) Development impact fees may not be appropriated for:
 - A. Funding maintenance or repair of capital improvements nor for operational or personnel expenses associated with the provision of the capital improvements;
 - B. A purpose other than system improvement costs to create additional improvements to serve new growth;
 - C. A category of system improvements other than that for which they were collected; or
 - D. The benefit of service areas other than for which they were imposed.
 - (4) Impact fee funds may be appropriated for a capital improvement located outside of the district where collected only if the demand for the capital

improvement is generated in whole or in part by the new land development or if the capital improvement will actually serve the new land development.

- (5) Impact fee funds may be appropriated beyond five (5) years from the beginning of the Fiscal Year immediately succeeding the date of collection if the appropriation is for a capital improvement which requires more than five (5) years to plan, design and construct, and the demand for the capital improvement is generated in whole or in part by the new land development, or if the capital improvement will actually serve the new land development. Such appropriations shall be fully documented on forms provided by the Village for such purposes.

(c) Procedure for Appropriation of Impact Fee Funds.

- (1) The Village shall each year identify capital improvement projects anticipated to be funded in whole or in part with impact fees. The capital improvement recommendations shall be based upon the impact fee annual review set forth herein and such other information as may be relevant, and may be part of the Village's annual budget and capital improvements programming process.
- (2) The recommendations shall be consistent with the provisions of this Ordinance, the particular impact fee ordinances, or other applicable legal requirements and any guidelines adopted by the Village Council.
- (3) The Village Council may include impact fee-funded capital improvements in the Village's annual budget and capital improvements program. If included, the description of the capital improvement shall specify the nature, location, capacity to be added, service area, need/demand for, and the anticipated timing of completion of the capital improvement.
- (4) The Village Council may authorize impact fee-funded capital improvements at such other times as may be deemed necessary and appropriate by the Village Council.
- (5) The Village Council shall verify that adequate impact fee funds are or will be available from the appropriate impact fee account for the particular category of capital improvements.

(Ord. _____. Passed _____)

961.08. - Appeal; remedies.

- (a) Appeal from Decision of Village Official. An appeal from any final decision of a Village official pursuant to this Ordinance shall be made to the Village Council by filing a written appeal on the appropriate Village form with the Village Administrator, with a copy to the Village Clerk, within thirty (30) days following the decision which is being appealed. The burden of proof shall be on the appellant to demonstrate that the decision of the Village Official is erroneous. All appeals shall detail the specific grounds therefor and all other relevant information and shall be filed on a form provided by the Village for such purposes.

- (b) Appeal from Decision of Village Council. An appeal from any final decision of the Village Council pursuant to this Ordinance shall be made to the Court of Common Pleas for Madison County, Ohio.
- (c) Permit Issuance and Payment under Protest. If the appeal is accompanied by a bond or other sufficient in a form satisfactory to the Village Attorney and the Finance Director in an amount equal to the impact fee calculated to be due, a zoning permit may be issued to the new land development. The filing of an appeal shall not stay the imposition or the collection of the impact fee as calculated by the Village unless a bond or other sufficient surety has been provided.
- (d) Mediation. In order to address any disagreement between the fee payor and the Village relative to the imposition of a development impact fee, the Village and the fee payor may, upon voluntary agreement, enter into mediation conducted by a qualified independent party. Participation in mediation does not preclude the fee payor from pursuing any other available remedies provided herein, in the Act, or otherwise available by law.
- (e) Incidental Benefit. The receipt of "incidental benefit" by a third party property owner or developer within the service area resulting from the payment of a development impact fee by a fee payor or developer shall not be considered grounds for exercising the remedies set forth herein.

(Ord. _____. Passed _____)

961.09. - Exemptions; waivers.

- (a) Filing of Application. Petitions for exemptions to the application of the provisions of this Ordinance or waivers from specific impact fees, or a portion thereof, shall be filed with the Village Administrator on forms provided by the Village. The Village Administrator shall verify the accuracy of the exemption application and forward same to the Planning and Zoning Commission for its consideration. The Planning and Zoning Commission shall recommend to the Village Council that the exemption application be approved, denied, or approved with conditions, based on the criteria set forth below.
- (b) Types of Exemptions. The following types of land development shall be exempt from the payment of development impact fees.
 - (1) Governmental Entities. Governmental entities proposing development within the Village may be exempt from the payment of development impact fees required pursuant to this Ordinance. In order to be exempt, the governmental applicant must demonstrate that the proposed use either creates no impact on the capital improvements for which impact fees are collected or that the applicant is entitled to an exemption by law. Village Council will grant an exemption only pursuant to a written finding that the applicant has adequately demonstrated that an exemption is due under this paragraph.
 - (2) Economic Development. Land development projects that will promote the long-term economic development of the Village may be exempt from the

payment of some or all of the development impact fees required pursuant to this Ordinance. Projects that promote the long-term economic development of the Village may be exempt only upon a specific finding by the Village Council that the proposed project will advance the goals and policies for economic development as set forth in the adopted Comprehensive Plan.

- (c) Effect of Grant of Exemption/Waiver. If the Village Council grants an exemption or waiver in whole or in part of impact fees otherwise due, the amount of the impact fees exempted or waived shall be provided by the Village from non-impact fee funds, as may be provided in the particular impact fee ordinances establishing such fees for particular capital improvements, and such funds shall be deposited to the appropriate impact fee account within a reasonable period of time consistent with the applicable Village capital improvements program.
- (d) An appeal from a decision of the Village Council under this section shall be to the Court of Common Pleas for Madison County, Ohio.
- (e) Development Agreements. Nothing herein shall be deemed to limit the Village's authority or ability to enter into Development Agreements with applicants for new land development which may provide for dedication of land or actual infrastructure improvements. In lieu of making development impact fee payments, the fee payor/developer and the Village, by mutual agreement, may enter into an agreement for the provision, construction and installation of capital improvements.
 - (1) The Agreement may additionally provide for credits or reimbursement for costs incurred by a fee payor or developer, including interproject transfers of credits or reimbursement for "project" improvements which are used or shared by more than one development project.
 - (2) A development impact fee for system improvements for a specific capital improvement category may not be imposed on a fee payor or developer who has entered into a development agreement providing for the provision of capital improvements for that same capital improvement category. Provided, however, that development impact fees may still be imposed on the fee payor or developer for system improvements for another capital improvement category.
 - (3) The development agreement shall include a provision addressing increases in development impact fees over the life of the development agreement as well as the applicability of subsequently adopted development impact fees for other capital improvements over the life of the development agreement and the development project.

(Ord. _____. Passed _____)

961.10. - Conflict.

To the extent of any conflict between other Village ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing Village ordinance, resolution or regulation, except as expressly set forth, herein.

(Ord. _____. Passed _____)

961.11. - Severability.

- (a) If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance which shall continue in full force and effect.
- (b) If the application of any provision of this Ordinance to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of the Village Council is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other new development.

(Ord. _____. Passed _____)

APPENDIX A. DEVELOPMENT IMPACT FEE DEFINITIONS

The words or phrases used in Sections 961.01 through 965.01 shall have the meaning prescribed in the current Village of Plain City Ordinances, as amended, except as otherwise indicated herein:

- (1) "Applicant" means any person who files an application with the Village for a zoning permit for new land development.
- (2) "Appropriation" means an action by the Village to identify specific capital improvements for which impact fee funds may be utilized. Appropriation shall include, but shall not necessarily be limited to: inclusion of a capital improvement in the adopted Village budget or capital improvements program; execution of a contract or other legal encumbrance for construction of a capital improvement using impact fee funds in whole or in part; and/or actual expenditure of impact fee funds through payments made from an impact fee account.
- (3) "Capital Expenditure" means any expenditure for a capital improvement, facility or equipment necessitated by new land development, which has an estimated useful life of five (5) years or longer, and which is required pursuant to a Village resolution. Capital expenditures may be for any capital improvement.
- (4) "Capital Improvements" means land or improvements and equipment with a useful life of five (5) years or more, by new construction or other action.

- (5) "Capital Improvements Plan" means a plan that identifies capital improvements for which development impact fees may be used as a funding source.
- (6) "Capital Improvements Expenditures" includes amounts appropriated in connection with the planning, design, engineering and construction of capital improvements; planning, legal, appraisal and other costs related to the acquisition of land, financing and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; costs of updating and amending this title; and all other costs necessarily incident to provision of the capital improvement.
- (7) "Developer" means the individual, firm, corporation, partnership, association, syndication, trust or other legal entity that is responsible for creating a demand for Village facilities and capital improvements by undertaking development or seeking approval of a new development.
- (8) "Development" means the issuance of a zoning permit or a connection permit for the construction, reconstruction, redevelopment or conversion of a use of land or any structural alteration, relocation or enlargement which results in an increase in the number of "service units" required, or, the extension of a use or a new use of land which results in an increase in the number of service units. A building or structure shall include, but not be limited to, modular buildings and manufactured housing. "Development" does not include alterations made to existing single-family homes.
- (9) "Fee Payor" means the individual or legal entity that pays or is required to pay a development impact fee.
- (10) "Impact Fee" means a fee relating to a capital facility or service provided by the Village which is imposed on development as a condition of approval of such land development as a prerequisite to obtaining a permit (zoning permit) or service (connection permit) and which is calculated to defray all or a portion of the costs of the capital improvements required to accommodate new land development at Village-designated level of service (LOS) standards and which reasonably benefits the new land development. The term does not include:
 - A. A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
 - B. Connection or hookup charges;
 - C. Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements.
- (11) "Incidental Benefits" means benefits which accrue to a property as a secondary result or as a minor consequence of the provision of public facilities to another property.

- (12) "Level of service (LOS)" means a measure of the relationship between service capacity and service demand for public facilities.
- (13) "Municipal Planning Area" means an area outside of the present Village limits, but in which the Village will provide public facilities and capital improvements.
- (14) "Proportionate Share" means that portion of the cost of system improvements which reasonably relates to the service demands and needs of the development project.
- (15) "Service Unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

EXHIBIT D

CHAPTER 962. - ROADWAY IMPACT FEES

Cross reference— Procedures - see Streets, Utilities and Public Services Chapter 961

962.01. - Adoption.

Upon the effective date of adoption of this Ordinance by the Village Council, the development impact fees for roadways shall hereby be imposed Village-wide, consistent with the requirements of the Village of Plain City Development Impact Fee Procedures Ordinance Chapter 961.

(Ord. _____. Passed __-__-__)

962.02. - Service area.

The applicable service area for imposition of the roadway development impact fee is the entire incorporated area of the Village and any municipal planning area designated by the Village.

(Ord. _____. Passed __-__-__)

962.03. - Fee imposition.

All new residential and non-residential development in the service area as herein defined shall be subject to the payment of a the roadway development impact fee provided in the Fee Schedule in Section 965.02 at the time of building permit issuance, unless otherwise provided herein or in the Procedures Ordinance.

(Ord. _____. Passed __-__-__)

962.04. - Fee amount.

- (a) Residential Development. The roadway development impact fee on all new residential development shall be imposed at 100% of the maximum amount.
- (b) Non-Residential Development. The roadway development impact fee on all new non-residential development shall be imposed at 100% of the maximum amount.

(Ord. _____. Passed __-__-__)

Cross reference— Fee Schedule, Section 965.01.

962.05. - Expenditure of fees for system improvements.

All roadway development impact fees shall be used for system improvements as set forth in the Village's adopted capital improvements plan and as summarized in the Impact Fee and Methodology Costing Report (January 2020). Roadway improvements generally include the following: acquisition of land for and development of roadways, signage and traffic control devices with a useful life of five years or more.

(Ord. _____. Passed __-__-__)

962.06. - Development impact fee updates/revisions.

The amount of the roadway development impact fee may be updated, revised and changed in response to the Annual Review and Report, as set forth in the Development Impact Fee Procedures Ordinance Chapter 961 or at such other times as the Village Council deems appropriate and necessary. If the roadway development impact fee is updated, revised or changed, such change shall be documented by the Village pursuant to the roadway development impact fee calculation methodology, unless changed solely due to inflation in the cost of providing police facilities and services.

(Ord. _____. Passed __-__-__)

962.07. - Termination of fee.

The roadway development impact fees shall be terminated upon the completion/conclusion of all of the roadway development impact fee-funded capital improvements as identified in the Impact Fee and Methodology Costing Report (January 2020) and set forth in the Village's capital improvements plan, unless the Village adopts a capital improvements plan for a subsequent time period or the Village adopts an updated roadway development impact fee.

(Ord. _____. Passed __-__-__)

962.08. - Liberal construction.

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of further promoting and protecting the public health, safety and welfare.

(Ord. _____. Passed __-__-__)

EXHIBIT E

CHAPTER 963. – SANITARY SEWER SYSTEM IMPACT FEES

Cross reference— Procedures - see Streets, Utilities and Public Services Chapter 961

963.01. - Adoption.

Upon the effective date of adoption of this Ordinance by the Village Council, the development impact fees for the sanitary sewer system shall hereby be imposed Village-wide, consistent with the requirements of the Village of Plain City Development Impact Fee Procedures Ordinance Chapter 961.

(Ord. _____. Passed __-__-__)

963.02. - Service area.

The applicable service area for imposition of the sanitary sewer system development impact fee is the entire incorporated area of the Village and any municipal planning area designated by the Village.

(Ord. _____. Passed __-__-__)

963.03. - Fee imposition.

All new residential and non-residential development in the service area as herein defined shall be subject to the payment of a the sanitary sewer system development impact fee provided in the Fee Schedule in Section 965.02 at the time of building permit issuance, unless otherwise provided herein or in the Procedures Ordinance.

(Ord. _____. Passed __-__-__)

963.04. - Fee amount.

- (a) Residential Development. The sanitary sewer system development impact fee on all new residential development shall be imposed at 100% of the maximum amount.
- (b) Non-Residential Development. The sanitary sewer system development impact fee on all new non-residential development shall be imposed at 100% of the maximum amount.

(Ord. _____. Passed __-__-__)

Cross reference— Fee Schedule, Section 965.01.

963.05. - Expenditure of fees for system improvements.

All sanitary sewer system development impact fees shall be used for system improvements as set forth in the Village's adopted capital improvements plan and as summarized in the Impact Fee and Methodology Costing Report (January 2020). Sanitary sewer system improvements generally include the following: acquisition of land for and development of sanitary sewer systems, equipment and infrastructure with a useful life of five years or more.

(Ord. _____. Passed __-__-__)

963.06. - Development impact fee updates/revisions.

The amount of the sanitary sewer system development impact fee may be updated, revised and changed in response to the Annual Review and Report, as set forth in the Development Impact Fee Procedures Ordinance Chapter 961 or at such other times as the Village Council deems appropriate and necessary. If the sanitary sewer system development impact fee is updated, revised or changed, such change shall be documented by the Village pursuant to the sanitary sewer system development impact fee calculation methodology, unless changed solely due to inflation in the cost of providing police facilities and services.

(Ord. _____. Passed __-__-__)

963.07. - Termination of fee.

The sanitary sewer system development impact fees shall be terminated upon the completion/conclusion of all of the sanitary sewer system development impact fee-funded capital improvements as identified in the Impact Fee and Methodology Costing Report (January 2020) and set forth in the Village's capital improvements plan, unless the Village adopts a capital improvements plan for a subsequent time period or the Village adopts an updated sanitary sewer system development impact fee.

(Ord. _____. Passed __-__-__)

963.08. - Liberal construction.

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of further promoting and protecting the public health, safety and welfare.

(Ord. _____. Passed __-__-__)

EXHIBIT F

CHAPTER 964. –PUBLIC SAFETY IMPACT FEES

Cross reference— Procedures - see Streets, Utilities and Public Services Chapter 961

964.01. - Adoption.

Upon the effective date of adoption of this Ordinance by the Village Council, the development impact fees for the public safety shall hereby be imposed Village-wide, consistent with the requirements of the Village of Plain City Development Impact Fee Procedures Ordinance Chapter 961.

(Ord. _____. Passed __-__-__)

964.02. - Service area.

The applicable service area for imposition of the public safety development impact fee is the entire incorporated area of the Village and any municipal planning area designated by the Village.

(Ord. _____. Passed __-__-__)

964.03. - Fee imposition.

All new residential and non-residential development in the service area as herein defined shall be subject to the payment of a the public safety development impact fee provided in the Fee Schedule in Section 965.02 at the time of building permit issuance, unless otherwise provided herein or in the Procedures Ordinance.

(Ord. _____. Passed __-__-__)

964.04. - Fee amount.

- (a) Residential Development. The public safety development impact fee on all new residential development shall be imposed at 100% of the maximum amount.
- (b) Non-Residential Development. The public safety development impact fee on all new non-residential development shall be imposed at 100% of the maximum amount.

(Ord. _____. Passed __-__-__)

Cross reference— Fee Schedule, Section 965.01.

964.05. - Expenditure of fees for system improvements.

All public safety development impact fees shall be used for system improvements as set forth in the Village's adopted capital improvements plan and as summarized in the Public Safety Capital Analysis (2020). Public safety improvements generally include the following: acquisition of land for and development of police stations and substations, police vehicles and police equipment with a useful life of five years or more.

(Ord. _____. Passed __-__-__)

964.06. - Development impact fee updates/revisions.

The amount of the public safety development impact fee may be updated, revised and changed in response to the Annual Review and Report, as set forth in the Development Impact Fee Procedures Ordinance Chapter 961 or at such other times as the Village Council deems appropriate and necessary. If the public safety development impact fee is updated, revised or changed, such change shall be documented by the Village pursuant to the public safety development impact fee calculation methodology, unless changed solely due to inflation in the cost of providing police facilities and services.

(Ord. _____. Passed __-__-__)

964.07. - Termination of fee.

The public safety development impact fees shall be terminated upon the completion/conclusion of all of the public safety development impact fee-funded capital improvements as identified in the Public Safety Capital Analysis (2020) and set forth in the Village's capital improvements plan, unless the Village adopts a capital improvements plan for a subsequent time period or the Village adopts an updated public safety development impact fee.

(Ord. _____. Passed __-__-__)

964.08. - Liberal construction.

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of further promoting and protecting the public health, safety and welfare.

(Ord. _____. Passed __-__-__)

EXHIBIT G

CHAPTER 965. – IMPACT FEE SCHEDULE

Cross reference— Procedures - see Streets, Utilities and Public Services Chapter 961

965.01. – Establishing impact fees

- (a) The Village Administrator shall annually review the impact fee schedule and provide proposed adjustments to the Village Council for consideration in conjunction with the annual budget.
- (b) The Village Council may amend the impact fee schedule outside of the budget process by ordinance.

(Ord. _____. Passed __-__-__)

965.02. – Impact fee schedule

As used in this Chapter "SF" means square foot/feet.

Source of Fee	Fee Title	Amount
962.04	Roadway Impact Fee	Employment Center \$1,007.05 per 1,000 SF
		Commercial Corridor \$3,478.90 per 1,000 SF
		Residential (All Types) \$823.95 per unit
963.04	Sanitary Sewer Impact Fee	Employment Center \$1,020.00 per 1,000 SF
		Commercial Corridor \$3,060.00 per 1,000 SF
		Residential (All Types) \$1,098.60 per unit
964.04	Public Safety Impact Fee	Employment Center \$249.00 per 1,000 SF
		Commercial Corridor

		\$498.00 per 1,000 SF Residential (All Types) \$219.00 per unit
--	--	---