

AVON TOWN COUNCIL

ORDINANCE NO. 20 22-14

AN ORDINANCE ADOPTING A REPLACEMENT RECREATION IMPACT FEE

WHEREAS, on June 10, 2017, the Avon Town Council adopted Ordinance 2017-11, establishing a recreation impact fee in the amount of \$1095 per unit, as provided for in Indiana Code §36-7-4-1300 et seq.; and

WHEREAS, this recreation impact fee became effective January 1, 2018; and

WHEREAS, under Indiana Code §36-7-4-1340, this recreation impact fee may be imposed for a period of five (5) years; and

WHEREAS, Indiana law provides that if the Town intends to impose a recreation impact fee after the expiration of the five-year period on January 1, 2023, the Town must adopt an ordinance adopting a replacement recreation impact fee; and

WHEREAS, the Town Council has determined that it is reasonable and necessary to replace the existing recreation impact fee with a new impact fee in order to promote and accommodate orderly growth and development and to promote the general public health, safety, and general welfare of the citizens of the Town of Avon (“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 Council has further determined 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 capital costs of new park and recreational infrastructure necessary to serve the new development; and

WHEREAS, the Town Council determined 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 has caused to be prepared a Recreation Zone Improvement Plan for Parks and Recreation Facilities (“the Plan”) by Lehman & Lehman, Inc., which plan is attached hereto as “Exhibit A” to this Ordinance and made a part hereof; and

WHEREAS, the cost of implementing the park and recreational recommendations of the Plan 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 net assessed valuation; and
- (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 benefits all citizens of the Town equally; and

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

WHEREAS, the Town has adopted a Comprehensive Plan under Indiana Code **§36-7-4-500 series for the geographic area over which the Town exercises planning and zoning jurisdiction;** and

WHEREAS, on May 23, 2022 the Town of Avon Plan Commission conducted a public hearing upon, and gave due deliberation to, the Zone Improvement Plan and approved this ordinance by resolution.

WHEREAS, on May 23, 2022, the Town of Avon Plan Commission recommended the amendment of the Comprehensive Plan to include the Zone Improvement Plan.

WHEREAS, the Town Council, has previously appointed the Avon Impact Fee Advisory Committee to advise the Town Council, pursuant to Indiana Code § 36-7-4-1312; and

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

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, INDIANA, THAT:

SECTION 1. Limitation on Imposition of Impact Fee. This Ordinance shall expire and become void five (5) years after its effective date as required by Indiana Code § 36-7-4-1340, unless action is undertaken to adopt a replacement impact fee consistent with Indiana law.

SECTION 2. Establishment of Impact Zone. There is hereby established one Recreation Infrastructure Impact Zone (the “Impact Zone”), the boundaries of which are co-terminus with the existing corporate boundaries of the Town, as such boundaries may be extended from time to time through annexation, and over which boundaries the Town exercises planning and zoning jurisdiction. In this regard, the Town Council specifically finds that there is a functional relationship between the components of the

infrastructure types in the Impact Zone, as described in the Plan, and that the infrastructure type, as detailed in the Plan, provides a reasonably uniform benefit to all citizens throughout the Impact Zone as of the adoption of this Ordinance. The Town Council further finds that all areas within the Impact Zone are contiguous as required by **Ind. Code § 36-7-4-1316**. **Except as provided herein, this Ordinance shall apply uniformly to all residential developments within the Impact Zone. This Ordinance shall not apply to:**

- a. Development meeting the requirements set forth in **Ind. Code § 36-7-4-1322(g)**;
- b. Improvements which do not require a building permit;
- c. Improvements which do not create a need for new and additional infrastructure, including the erection of a sign, construction of accessory buildings, structures or fences, or the alteration, renovation or expansion of an improvement where the use, or intensity thereof, has not changed;
- d. 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; ~~and~~
- e. Non-residential development; and
- f. **Qualified Property, as defined in Indiana Code §36-1-8-18, unless the owner requests that an impact fee be imposed on the property.**

SECTION 3. Zone Improvement Plan. As a precondition to the adoption of this Ordinance, the Town Council undertook a comprehensive and detailed park and recreational impact analysis through the employment for that purpose of Lehman & Lehman, Inc. The Town Council now finds that the resulting study and data base constitute a sufficient study to constitute a “Zone Improvement Plan” as contemplated by **Ind. Code § 36-7-4-1318**. The Town Council does hereby adopt the plan prepared by Lehman & Lehman, Inc., dated April 2022 as its Zone Improvement Plan and specifically finds that the Zone Improvement Plan contains 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. A reasonable determination of the community level of service for the Impact Zone.
- d. Reasonable estimates relating to the nature and location of development that is expected to occur within the Impact Zone during the following ten (10) year period.
- e. A reasonable estimate of the nature, location, costs, sequencing, and timing of the park and recreational infrastructure necessary to provide the community level of service for the developments contemplated in subparagraph (d).
- f. A general description of the sources and amounts of money used to pay for infrastructure during the previous five years.
- g. Reasonable provisions for the completion of the infrastructure necessary

to raise the current level of service to the community level of service within the following ten (10) year period.

- h. Reasonable provisions for the nature, location, and cost of infrastructure that is necessary to raise the current level of service to the community level of service.
- i. Reasonable provisions concerning the revenue sources and estimated amounts of revenue that the Town intends to use to raise the current level of service to the community level of service for existing development.
- j. A reasonable estimate of the share of the park and recreational costs identified in sub-paragraph (e) hereof that will be used to raise the current level of service for existing development or provide service to existing development, or to provide service to new development.
- k. A reasonable estimate of revenues that are from sources other than impact fees and will be used to finance the cost of raising the current level of service for existing development or providing service to existing development.

Additionally, on May 26, 2022, the Town Council adopted the Zone Improvement Plan as an official part of the Comprehensive Plan of the Town of Avon, pursuant to Ind. Code § 36-7-4-500 et seq.

SECTION 4. Establishment of Park and Recreation Impact Fee. Based on the Plan, it is determined that each dwelling unit hereafter constructed in the Town of Avon, not specifically excepted hereunder, shall pay a recreational impact fee in the amount of \$1,227 in 2023 and shall include a 3% annual inflation factor for 2024-2027. See Impact Fee Schedule below:

Impact Fee Schedule

2023 - \$1,227
2024 - \$1,264
2025 - \$1,302
2026 - \$1,341
2027 - \$1,381

The Town Council hereby makes as part of the record of these proceedings all the data collected, calculations made, and conclusions reached by the Town's consultant, Lehman & Lehman, Inc., in the process of developing the Zone Improvement Plan, and specifically instructs the employees of the Town to make such data available to the public for review during regular business hours, along with any other information that is part of the public record created as a result of the process involved in enacting this Ordinance.

In the event, any parcel of real estate subject to the Plan undergoes a change in use from a use for which the impact fee does not pertain to a dwelling unit, an impact fee will be assessed against said real estate.

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 casualty beyond his/her/its control, shall be exempt from said fee if he/she/it repairs or replaces the destroyed structure without creating a burden on infrastructure great than the burden imposed by the destroyed infrastructure. In the event of such additional burden, the fee shall be calculated based only on the increased burden created by the structure.

The Town Council hereby designates the Town Public Works Department as the infrastructure agency that is responsible for acquiring, constructing and providing each infrastructure improvement type identified in the Zone Improvement Plan.

SECTION 5. Credit in Lieu of Payment. A fee payer is entitled to a credit against an impact fee if the owners or developer of the development constructs or provides infrastructure that is an infrastructure type for which the Town imposed an impact fee in **the impact zone or constructs or provides an improvement as defined by I.C. §36-7-4-1335(a)**. Such infrastructure or improvement will be public property or furnished or constructed under the requirements of the Town (including but not limited to the Plan) and available for use by other development in the area. The amount of a credit will be determined at the date the impact fee is assessed. If an assessment is not requested, the amount of the credit will be determined at the time the structural building permit is issued. The amount of the credit shall be determined by the person constructing or providing the infrastructure or improvement and the Avon Town Council. The amount of the credit will be equal to the sum of the cost of constructing or providing the infrastructure or improvement and the fair market value of land, real property interests, and site improvements provided.

The amount of the 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 on the date the impact fee is assessed. Provided however, at the time the amount of the credit is determined on the date the impact fee is assessed, the person providing the infrastructure or improvement and the Avon Town Council may agree that the amount of the credit may not be subsequently increased or decreased.

The person providing the infrastructure or improvement may waive the person's right to a credit against an impact fee by executing a written waiver and filing such waiver with the Avon Town Council.

If the actual cost of constructing or providing the infrastructure or improvement and the fair market value of land, real property interests, and site improvements provided is less than the amount of the impact fee assessed, the difference shall be due from the owner as otherwise provided. If the amount of the credit exceeds the impact fee provided for by this ordinance, no fee will be due to the Town and no refund will be due to the fee payer.

If the parties cannot agree on the cost or fair market value used in calculating the credit, the fee payer or the person constructing or providing the infrastructure or improvement may file with the Town's Impact Review Board a petition for determination of the amount of the credit. This petition must be filed not later than 30 days after the structural building permit is issued for the development on which the impact fee is imposed. Immediately after receiving a timely filed petition for determination of a credit amount, the Review Board shall provide a copy of the petition to the Town Council. Not later than 30 days after receiving a copy of the petition, the Town Council shall provide to the Board a response on the form prescribed by the Board. The Board shall immediately provide the petitioner a copy of the Town Council's response. The Review Board shall review the petition and the response and hold a public hearing to determine the amount of the credit not later than 30 days after the response is provided to the Board. At the hearing, each party may appear and present evidence in person, by agent, or by attorney. A person may not communicate with a member of the Board before the hearing with intent to influence the member's action regarding the appeal. The Board may reverse, affirm, modify, or otherwise establish the amount of the credit. Within 5 days after making its decision, the Board shall provide to the petitioner and the Town Council a copy of its written findings and decision. A fee payer aggrieved by the board's final determination of the amount of the credit may, within 30 days of the determination, appeal the determination to the Circuit or Superior Courts of Hendricks County. This appeal shall be determined by a trial de novo.

In addition, 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 6. Impact Fee Due Upon Issuance of a Building Permit. The Fee imposed pursuant to the terms of this Ordinance shall be due and payable upon the issuance of a building permit by the Town. It is understood that the term "building permit" is synonymous with the term "structural building permit" as that term is used in **Ind. Code § 36-7-4-1323**, in that the issuance of a building permit authorizes the applicant to commence construction activities, structural or otherwise. The Fee which is calculated pursuant to the terms of this Ordinance, which is a per dwelling unit Fee, shall be due at said time unless the amount of the fee upon calculation is greater than Five Thousand Dollars (\$5,000.00), in which case an installment plan may be requested by the applicant in accordance with the terms set forth in **Ind. Code § 36-7-4-1324**.

In an installment plan, a maximum of \$5,000 or 5% of the impact fee, whichever is greater, shall become due and payable on the date the building permit is issued for the development on which the fee is imposed. The first installment may not become due and payable less than one year after the building permit is issued, and the last installment may not be due and payable less than two years after the building permit is issued. When an impact fee is paid through an installment plan, interest shall accrue at the rate of 5% per annum on the portion of the impact fee that is outstanding and does not begin to accrue until the date the structural building permit is issued for the

development or part of the development on which the impact fee is imposed. If all or part of an impact fee 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 10% of the installment amount that is overdue. Interest, as identified above, shall also be charged on the penalty amount.

If a fee payer requests, the amount of the Fee shall be assessed upon the voluntary submission of a development plan or upon the issuance of the building permit whichever is earlier. For purposes of this section, assessment means the act of calculating the amount of the Fee which shall be due. The Town shall make such assessment within thirty (30) days of the earlier of the date the fee payer obtains an improvement location permit or the date the fee payer voluntarily submits to the Town a development plan and evidence that the property is zoned for the proposed development.

SECTION 7. Lien Rights Established. Pursuant to Ind. Code § 36-7-4-1325, the Town acquires a lien against the real estate which is the subject of the Fee on the date a building permit is issued. Upon adoption, this Ordinance shall be recorded, and thereafter, it shall constitute constructive notice of the lien rights of the Town with respect to a parcel of real estate which is the subject of an installment payment of the Fee. The Town 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 installment payment of the Fee, and such instrument shall constitute actual notice in addition to the constructive notice provided for by the recording of this Ordinance.

SECTION 8. Form of Receipt. The Avon Clerk-Treasurer shall issue a receipt for all Fees collected, in substantially the following form:

Received of _____ (fee payer) this ____ day of _____ the sum of \$ _____ in (full) | (partial) satisfaction of Recreational Impact Fees due pursuant to Avon Town Council Ordinance No. 2022-14 relating to improvements to be constructed on the real estate located at _____ and described on Exhibit A attached hereto and made part hereof, and subject to lien rights in favor of the Town of Avon in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$ _____.

Avon Clerk-Treasurer

SECTION 9. Continuation of Avon Impact Fee Review Board. The Town Council established, pursuant to Ind. Code § 36-7-4-1338, an Avon Impact Fee Review Board in 2012, and this Board will continue to exist and will have the same authority as provided for in Ordinance 2012-13. This Board shall consist of three (3) citizen members appointed by the Town Council President 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; and
One (1) member shall be a certified public accountant.

A Board member shall not be a member of the Avon Advisory Plan Commission.

The initial term for the real estate broker shall be 1 year. The initial terms of the engineer and the certified public account shall be 2 years. At the expiration of the terms of each Review Board member, successors shall be appointed in the same manner as the original appointees, and each such succeeding member shall serve for a term of two (2) years. Each member shall continue to serve until his/her successor is appointed and qualified.

If any person appointed as an Impact Fee 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, or vacate office, the Town Council President shall fill such vacancy with a new member meeting the qualifications of the member being replaced. A new member shall serve out the remainder of the vacated term.

If a Review Board member is unable to hear a petition due to a conflict of interest, the Town Council President shall appoint a temporary member to serve for the period necessary to dispose of the petition giving rise to the conflict. The temporary member shall qualify in the same manner as the member in whose place he/she is serving.

The Board shall elect one of its members as President and one as Vice-President, each of whom shall serve from the day of his/her election until the following January 31st and until his/her successor is elected and qualified.

The Board is authorized to adopt by-laws, rules, regulations, and procedures as it may deem necessary for the proper conduct of its proceedings and the carrying out of its duties. Meetings and hearings shall be held at such time as the Board may determine and upon such notice as it may fix, in accordance with the provisions of the by-laws, rules, and regulations adopted and Indiana law.

A majority of the Board shall constitute a quorum and the concurrence of a majority shall be necessary to authorize any action.

The 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 Ind. Code §§ 36-7-4-136 and 36-7-4-1338(c).

The Avon Impact Fee Review Board shall be governed by Ind. Code § 36-7-4-1338 and all other applicable provisions of the Impact Fee Statute.

SECTION 10. Appeal of Fee Assessment. Any fee payer who believes itself to be aggrieved by the calculation of the Fee may appeal the fee assessment to the Avon Impact Fee Review Board, and the Review Board 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:

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

Upon conclusion of the hearing at which the matter is first presented, or at the conclusion of the hearing if the matter is continued, the Avon Impact Fee Review Board shall determine the appropriate amount of the fee based upon the facts presented and may reverse, affirm, modify, or make such adjustments in the 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, credit, or refunds.

The Avon Impact Fee Review Board shall make written findings of fact supporting its decision and shall provide a copy of its decision to the Town Council and the fee payer involved in the appeal within five (5) days after making its decision.

An appeal under this Section must be filed no later than thirty (30) days after the issuance of the building permit. The appeal shall be initiated with the filing of a Petition for Review with the Avon Clerk-Treasurer together with a filing fee in the amount of One Hundred Dollars (\$100.00). The filing fee shall be refunded in full if:

- 1. The Petition for Review is granted and the Fee is eliminated, reduced or adjusted by the Avon Impact Fee Review Board, by independent action of the Town, or by a court having jurisdiction; and
- 2. The reviewing body determines that the amount of the Fee, reductions, or credits were arbitrary or capricious or contrary to Indiana law.

The Petition for Review shall be in a form calculated to inform the Avon Impact Fee Review Board of the nature of complaint, the parties to the action, and the relief requested. In addition, the Petition shall describe the new development on which the Fee has been assessed, all facts related to the assessment of the Fee, and the reasons the petitioner believes that the amount of the Fee assessed is erroneous or is greater than the amount allowed by the Fee limitation set forth in this ordinance and the enabling statute.

A fee payer aggrieved by a final determination of the Review Board regarding the assessment of an impact fee may appeal the Board's determination to the Circuit or Superior Courts of Hendricks County and is entitled to a trial de novo. If the assessment of the fee is vacated by the Court, the assessment of the impact fee shall be corrected by the Board.

If a petition for review or an appeal of an impact fee assessment is pending, the impact fee is not due and payable until after the petition or appeal is finally adjudicated and the amount of the fee is determined.

The Town shall not deny the issuance of a building permit on the basis that the Fee has not been paid or condition issuance of the permit on the payment of the Fee unless the Fee totals One Thousand Dollars (\$1,000.00) or less. If the fee is \$1,000 or less, the Town may require the fee payer to pay the Fee or initiate an appeal before the building permit is issued.

SECTION 11. Refunds. A fee payer is entitled to a refund of an impact fee if the conditions provided for in I.C. §36-7-4-1332(a) exist. An application for a refund must be filed with the Clerk-Treasurer not later than 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 not later than 30 days after receiving an application for a refund. 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 for refunds shall be 5% per year. The Town Manager is responsible for accepting, rejecting, and paying a refund and interest.

If the Town rejects the application for a refund or approves a partial refund, the fee payer may appeal that rejection to the Review Board not later than 60 days after the rejection or partial approval. The appeal shall be on a form prescribed by the Board. Upon receipt of an application for appeal, the Review Board shall immediately provide to the Town Council notice of the appeal. The Review Board shall hold a hearing on all appeals for a refund. This hearing shall be held not later than 45 days after the application for appeal is filed with the Board. After the hearing, the Review Board shall determine the amount of refund that shall be made to the fee payer from the account established herein. 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 rate of 5% per annum. A party aggrieved by a final decision of the Review Board regarding a refund may appeal the decision to the Circuit or Superior Courts of Hendricks County and is entitled to a trial de novo.

SECTION 12. Continuation of Park and Recreation Infrastructure Improvement Fund. In Ordinance 2012-13, there was established the Avon Park and Recreation Infrastructure Improvement Fund (“the Fund”) of the Town, and this Fund will continue. 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. The Fund shall consist initially of one account based upon the current existence of one impact zone. If, and only if, 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 with the Fund, shall be deposited and maintained within the Fund or the separate account. The Avon Clerk-Treasurer shall maintain records of the status of the Fund or any account which may be established therein, and shall make an annual report of the Fund and accounts which shall be available to the public in general and fee payers, upon request.

Pursuant to Ind. Code § 36-7-4-1332, the Clerk-Treasurer is designated as the Town official responsible for acting on refund requests. In order to facilitate refunds when they may be due, the Clerk-Treasurer is directed to identify the purpose of any 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 13. Use of Impact Fees Collected Pursuant to this Ordinance. Any and all Fees collected pursuant to the provisions of this Ordinance may be utilized only for the following purposes by the Town, acting by and through its Town 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 Town for the purpose of paying the capital costs of new park and recreational infrastructure that is needed to serve the new development within the corporate limits of the Town as the same may be amended from time to time and any area over which the Town may exercise any of its authority;
- 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; and
- d. To pay the debt service cost of an obligation issued to provide new park and recreational infrastructure described in sub-paragraph (a) above.

SECTION 14. Indiana Impact Fee Law. The Town Council specifically acknowledges the existence of Ind. Code § 36-7-4-1300 et seq. (“the 1300 Series - Impact Fees”) which regulates the imposition of impact fees by municipal corporations within the State of Indiana. The substantive and procedural requirements of Ind. Code § 36-7-4-1300 et seq. shall control in the events of conflicts with this Ordinance which are unintended by the Council.

SECTION 15. Amendment and Review. The 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 Council may 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 Plan. The Council shall consider and adopt such amendments as are necessary to cause a substantive compliance with all constitutional and statutory requirements. To the extent required by the facts and circumstances, this process shall include the steps necessary to update the Plan and the Comprehensive Plan.

SECTION 16. Effective Date. This Ordinance shall be effective January 1, 2023, which is not earlier than six (6) months after its adoption by the Council in accordance with Ind. Code § 36-7-4-1340.

SECTION 17. 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 clauses to which they pertain.

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

This Ordinance is hereby passed by the Avon Town Council on May 26, 2022.

Avon Town Council:

Robert Pope, President

Aaron Tevebaugh, Vice President

Steve Eisenbarth, Member

Dawn Lowden, Member

Greg Zusan, Member

Attest: _____
Julie Loker, Clerk-Treasurer

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

Daniel L. Taylor

This document was prepared by: Daniel L. Taylor, Indiana Supreme Court No. 11337-54
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EXHIBIT "A"

**RECREATION ZONE IMPROVEMENT PLAN
FOR PARKS AND RECREATION FACILITIES**