

ORDINANCE NO. 2018- 12

**An Ordinance Amending the Municipal Code of the City of Hobart
On the Recovery of Professional Fees and Costs for
Private Developments within the City**

WHEREAS, the Common Council ("Council") of the City of Hobart, Indiana ("City") previously enacted Ordinance No. 2010-18 which added Chapter 155 to the Hobart Municipal Code ("Code" or "HMC") establishing a procedure for the recovery by the City of professional fees and costs incurred for the City Engineer, consulting engineers, architects, financial consultants, the City Attorney and other attorneys acting as special counsel along with legal advertising and recordation fees to the City through the use of reimbursement agreements; and

WHEREAS, said Ordinance was subsequently amended by Ordinance Nos. 2011-38 and 2012- 35; and

WHEREAS, the Council has received the request of the Department of Development to further amend said chapter to require the full amount of the total anticipated fees to be incurred by a developer for the City's professionals and legal advertising and recordation costs to be deposited upon execution of the reimbursement agreement, rather than one-half of that amount as required in the current language of the above ordinances, in order to save staff time in later collecting the balance of the fees and costs owed, and to avoid the need to delay final action on projects until the balance of the fee is collected; and

WHEREAS, the City Attorney has also requested the Council to correct a scrivener's error which appears in said Chapter; and

WHEREAS, the Council now wishes to amend said Chapter of the Code accordingly.

THEREFORE, BE IT ORDAINED by the Common Council of the City of Hobart, Indiana as follows:

(Deleted words are ~~stricken through~~; added words are underlined.)

SECTION ONE. The Municipal Code of the City of Hobart, Indiana ("Code") is hereby amended in Title XV thereof on "LAND USAGE," in §155.06 of "Chapter 155," said section being entitled "*RECEIPT AND DEPOSIT OF FUNDS; FINANCIAL ARRANGEMENTS,*" by striking the words "one-half of" so that said section now reads as follows:

§155.06. *RECEIPT AND DEPOSIT OF FUNDS; FINANCIAL ARRANGEMENTS.*

Upon execution of the reimbursement agreement required by §155.05 of this chapter, the developer shall deposit with the Clerk-Treasurer of the City a sum equal to ~~one-half of~~ the total

1 estimated professional fees, legal advertising and recordation fees
2 and costs specified in the agreement. No consideration shall be
3 given by any board, council, commission or official of the City to
4 the application of the developer until such deposit is paid. Before
5 the final action of the City board, commission, council or official
6 on the developer's application for official land use action or an
7 official financing incentive action, the City shall give written
8 notice to the developer of the final sum of all fees and costs for
9 professional services incurred by the City in evaluation and review
10 of the application to the developer, and the developer shall pay the
11 City, in reimbursement thereof, the balance of all such fees and
12 costs incurred less deposits previously paid by the developer. No
13 final action shall be taken on the application until such payment is
14 made. If the sum of all deposits made by the developer with the
15 City exceed the sum of all of such professional fees and costs
16 incurred by the City, the City shall promptly reimburse the balance
17 to the developer. If, after final action is taken, fees or costs are
18 billed to the City for professional services or legal advertising or
19 recordation fees not previously billed, the applicant shall reimburse
20 the City for same promptly upon written invoice to the developer
21 by the Clerk-Treasurer.
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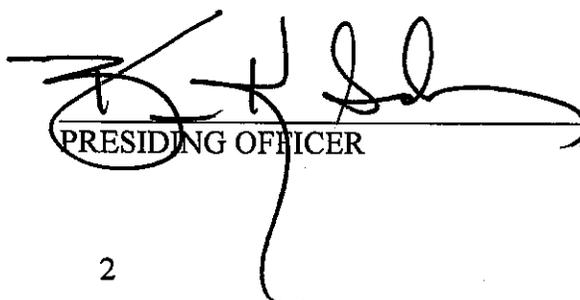
23 *SECTION TWO:* The Municipal Code of the City of Hobart, Indiana ("Code") is
24 hereby further amended in Title XV thereof on "LAND USAGE," in §155.07 of
25 "Chapter 155," said section being entitled "*ENFORCEMENT AND DAMAGES*," by
26 striking the word "special" in line four, and inserting in lieu thereof the word "specific,"
27 so that said section now reads as follows:
28

29 **§155.07. ENFORCEMENT AND DAMAGES.**

30
31 The City shall be entitled to enforce the provisions of this
32 chapter, including the provisions of any reimbursement agreement
33 provided for in this chapter, by any remedy at law or in equity,
34 including, but not limited to, injunction, damages, ~~special~~ specific
35 performance and the recovery of attorney fees and costs.
36

37 *SECTION THREE:* All ordinances or portions thereof in effect prior to the
38 effective date and in conflict with the provisions of this ordinance are hereby repealed.
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40 ALL OF WHICH is PASSED and ADOPTED by the Common Council of the City of
41 Hobart, Indiana on this 6th day of June, 2018.
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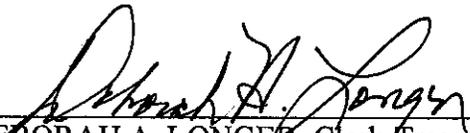
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46 PRESIDING OFFICER

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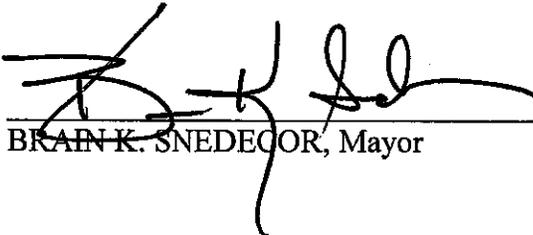
ATTEST:


DEBORAH A. LONGER, Clerk-Treasurer

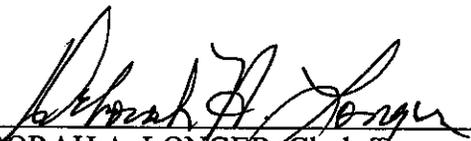
PRESENTED by me to the Mayor of the City of Hobart on the 6th day of June, 2018 at the hour of 7:00 p.m.


DEBORAH A. LONGER, Clerk-Treasurer

APPROVED, EXECUTED and RETURNED by me to the Common Council of the City of Hobart on this 6th day of June, 2018.


BRIAN K. SNEDECOR, Mayor

ATTEST:


DEBORAH A. LONGER, Clerk-Treasurer