

## ORDINANCE 98-16

### AN ORDINANCE ADOPTING IMPACT FEES FOR RESIDENTAL DEVELOPMENT IN THE CITY OF MT. JULIET AND TO PLACE IN EFFECT THE PROVISIONS OF TENNESSEE SENATE BILL No. 3007.

**BE IT ORDAINED** by the City of Mt. Juliet, Wilson County, Tennessee as follows:

**Section 1.** The Board of Commissioners of the City of Mt. Juliet hereby finds that:

(a) New residential development imposes increased and excessive demands upon City facilities.

(b) Studies show that new development overburdens existing public facilities and that tax revenues generated from new development do not generate sufficient funds to provide public facilities to serve new development.

(c) Planning, economic and demographic studies project that new development will continue and will place ever-increasing demands on the City to provide public facilities to serve new development.

(d) The development potential and property values of properties in the designated benefit areas are strongly influenced by City policy as expressed in the comprehensive plan and as implemented by the City zoning ordinance and map.

(e) To the extent that new development in designated benefit areas place demands upon the public facilities, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public to the development creating the demands.

(f) The City is responsible for and is committed to providing public facilities at levels necessary to cure any existing deficiencies in already developed areas.

(g) Impact fees collected pursuant to this Ordinance may not be used to cure existing deficiencies in public facilities.

(h) The Board finds that there is a need for transportation related projects anticipated to be funded, in part, by this tax and adopts the Master Plan and Route Plan which indicate the need for and costs of public transportation related projects. The Board further finds that such public transportation related projects is related to new development in the City of Mt. Juliet.

(i) The findings of Impact Fee Study by James Duncan and Associates dated October 27, 1997 is adopted and incorporated by reference into this Ordinance.

#### **Section 2. Authorization.**

This Ordinance is enacted pursuant to the general police power, the authority granted pursuant to the Constitution of the State of Tennessee, the Tennessee Code Annotated and State of Tennessee Senate Bill No. 3007 enacted by Tennessee State Legislature effective May 19, 1998.

### **SECTION 3. Purpose and Intent.**

Any judicial action or proceeding to attack, review, set aside, or annul the reasonableness, legality, or validity of any impact fee must be filed and service of process effected within ninety (90) days following the date of imposition of the fee or the final determination of the Board of Commissioners, whichever is later. In the event of a conflict between the provisions of this Ordinance and the provisions of any other ordinance or resolution establishing or amending impact fees, the provisions of this Ordinance shall govern.

### **SECTION 4. Effective date.**

This Ordinance becomes effective upon final passage or at the earliest date allowed by law.

### **SECTION 5. Applicability.**

Unless expressly excepted or exempted, this Ordinance applies to all fees imposed by the City to finance capital facilities, the need for which is created by new residential development, including:

### **SECTION 6. Exemptions.**

This Ordinance does not apply to:

(a) Public Buildings "Public Buildings" shall mean a building owned by the State of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(b) Places of Worship "Places of Worship" shall mean that portion of a building owned by a religious institution which has tax-exempt status, which is used for worship services and related functions, but does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(c) Commercial Property "Commercial Property" shall mean development of any property for a purpose other than for a dwelling unit or units.

### **SECTION 7. Imposition, Calculation and Collection of Impact Fees.**

(a) Except as provided in this Ordinance and any amendment to this Ordinance, the City may impose impact fees as a condition of approval of all new development projects covered by this Ordinance. The fee will be imposed based on the square feet of floor area. Floor area shall mean the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party wall separating such buildings or portions thereof.

(b) The base fee amount of each residential development shall be calculated annually and adopted by the Board of Commissioners by Resolution not to exceed the maximum fees allowed by law. The fee is set at fifty (50) cents per gross square foot of new residential development and may be amended by Resolution on an annual basis as provided for in this Ordinance.

(c) Impact fees shall be collected by the Public Works Director, or at his direction, at the time and as a condition for issuance of a building permit.

(d) Impact fees shall be expended for streets and parks.

#### **SECTION 8. Amendments**

Prior to the City Commissioner's adoption of the budget and revisions to the Capital Improvements Project List, the Director of Finance shall report at least once each year to the Board of Commissioners with:

- a. Recommendations for amendments to this Ordinance
- b. Proposals for changes to the Capital Improvements Project List, identifying capital improvements to be funded in whole or in part by impact fees;
- c. Proposals for changes in the boundaries of benefit areas; and
- d. Proposals for changes to impact fee rates and schedules

#### **SECTION 9. Appeals.**

(a) Any person or concern affected by the imposition of an impact fee may challenge the imposition of a fee imposed pursuant to this Ordinance by filing with the City Clerk a written notice of appeal with a full statement of the grounds and an appeal fee of two hundred dollars (\$200) or such other amount as may be fixed from time to time by Resolution of the Board of Commissioners. The City may continue processing the development application if the notice of appeal is accompanied with a bond or other security in an amount equal to the impact fee.

(b) The appellant bears the burden of demonstrating that the amount of the fee was not calculated according to the procedures established in this Ordinance or by Resolution adopting fees.

(c) At a regular meeting following the filing of the appeal, the Board of Commissioners shall fix a time and place for hearing the appeal, and the City Recorder shall mail notice of the hearing to the appellant at the address given in the notice of appeal. The hearing shall be conducted at the time and place stated in the notice, and the determination of the Board of Commissioner shall be announced at the conclusion of the hearing or at the next regular meeting of the Board of Commissioners. The determination of the Board of Commissioners shall be final.

#### **SECTION 10. Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.

**BE IT FURTHER ORDAINED**

In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the conflicting ordinance is repealed to the extent of the conflict but no further.

If any section, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this ordinance.

This ordinance shall take effect on the earliest date allowed by law.

PASSED:

FIRST READING:

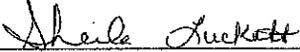
SECOND READING:

5/18/98  
6/15/98

  
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David J. Waynick, Mayor

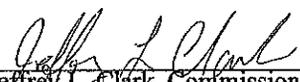
  
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C. Michael Sowell, Vice-Mayor

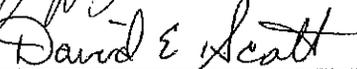
ATTEST:

  
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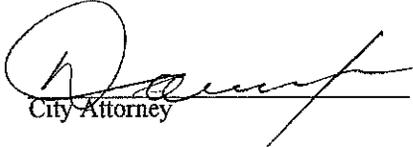
Sheila Luckett, Recorder

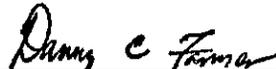
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James L. Bradshaw, Commissioner

  
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Jeffrey L. Clark, Commissioner

  
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David E. Scott, Commissioner

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

  
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Danny Farmer, City Manager