

ORDINANCE 2011-07

**TO BE ENTITLED: "AN ORDINANCE TO AMEND CHAPTER
4 OF TITLE 16 OF THE FRANKLIN MUNICIPAL CODE
CONCERNING ROAD IMPACT FEES."**

WHEREAS, the Board of Mayor and Aldermen desires to set road impact fees to assure the provision of adequate arterial road improvements to serve such new development, by requiring the developer to pay the pro rata share of the costs of new road improvements or expansions reasonably attributable to such new development, based upon recent growth in residential and nonresidential development; arterial road improvements actually constructed; changing levels of service and transportation needs; inflation; revised cost estimates for arterial road improvements; and changes in the availability of other funding sources for arterial road improvement; and

WHEREAS, the Board of Mayor and Aldermen commissioned and received a Road Impact Fee Update Study conducted by Duncan Associates and dated November 2010 that indicates a need to increase the Road Impact Fees in order to recover and fund the City's roadway infrastructure improvements more efficiently; and

WHEREAS, the Board of Mayor and Aldermen desires, due to the high cost of the rights-of-way required for the construction of the public arterial road improvements, to include the cost of rights-of-way in the calculations for the Road Impact Fees and associated eligible Off-Sets; and

WHEREAS, the City of Franklin Municipal Charter, art. H, § 1 (38), as amended by Priv. Acts 1987, Ch. 54 and by Priv. Acts 1987, Ch. 117 (HB 1311) confers such power to increase Road Impact Fees.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Title 16 of the City of Franklin Municipal Code is hereby amended by deleting existing Chapter 4 and replacing it with the following:

CHAPTER 4

ROAD IMPACT FEE

SECTION

- 16-401. Short Title.
- 16-402. Purpose.
- 16-403. Authority.
- 16-404. Findings.
- 16-405. Definitions.
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- 16-407. Applicability.
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- 16-409. Establishment of Service Area.
- 16-410. Impact Fee Schedule.
- 16-411. Individual Assessment of Road Impacts.
- 16-412. Collection of Impact Fees.
- 16-413. Establishment of Account.
- 16-414. Use of Proceeds of Impact Fee Accounts.
- 16-415. Refunds.
- 16-416. Updates of Fees.
- 16-417. Offsets.
- 16-418. Contract for Construction of Improvements.
- 16-419. Use of Other Financial Mechanisms.
- 16-420. Impact Fee as Additional and Supplemental Regulation.
- 16-421. Exemptions from Chapter.
- 16-422. Relief Procedures.
- 16-423. Appeal.

16-401. Short Title. This Chapter shall be known and may be cited as the Franklin Road Impact Fee Ordinance. (1976 Code, § 12-401, as replaced by Ord. #2000-24, July 2000)

16-402. Purpose. It is the intent and purpose of this Chapter to establish the regulatory procedure for assessing and collecting fees of new Development within the City of Franklin in order to assure the provision of adequate Arterial Road Improvements to serve such new Development, by requiring the Developer to pay the pro rata share of the costs of new road improvements or expansions reasonably attributable to such new Development. (1976 Code, § 12-402, as replaced by Ord. #2000-24, July 2000)

16-403. Authority. This Chapter is adopted pursuant to the powers conferred by the Franklin Municipal Charter, art. H, § 1 (38), as amended by Priv. Acts 1987, Ch. 54 and by Priv. Acts 1987, Ch. 117 (HB 1311). (1976 Code, § 12-403, as replaced by Ord. #2000-24, July 2000)

16-404. Findings. (1) Williamson County, a suburban county of metropolitan Nashville, of which the City of Franklin is the county seat, is one of the fastest growing counties in the State of Tennessee.

(2) The City of Franklin is one of the fastest growing municipalities in the state and is experiencing rapid population and employment growth, in part as a result of the location of regional employment facilities.

(3) The anticipated population and employment growth in Franklin creates the demand for additional capital improvements for road and transportation facilities, including but not limited to, highways, streets, intersection improvements, turn lanes and signalization.

(4) The City is responsible for and committed to the provision of such road and transportation improvements at a level of service necessary to support anticipated Residential and employment growth.

(5) The Tennessee Legislature has authorized the City of Franklin to impose a Road Impact Fee on new Development.

(6) The Road Impact Fee herein established is directly proportional to the need for new road and transportation improvements generated by new Development and reasonably benefits the Developer who pays the fee. (1976 Code, § 12-404, as replaced by Ord. #2000-24, July 2000)

16-405. Definitions. (1) "Arterial Road Improvement" means any capital improvement, including but not limited to new roads, additional lanes, widened lanes, intersection improvements, turn lanes, bridges, traffic signals, Intelligent Transportation System (ITS) improvements, street lighting, and associated drainage facilities, that expands the capacity of the City's Arterial Road System. The cost of water, wastewater, electricity except as required for the street lighting or natural gas utilities located within the road right-of-way, or the cost of relocating such utilities as necessitated by a road improvement, shall not be included in the definition of Arterial Road Improvement cost.

(2) "Arterial Road System" means all existing and planned arterials, excluding Interstate 65 identified on the City's adopted Major Thoroughfare Plan map.

(3) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind, including a mobile home, but excluding Buildings used for agricultural purposes.

(4) "Building Permit" means a permit issued by the Building official authorizing performance of a specified activity in or on a structure or Building.

(5) "Certificate of Occupancy" means a license for occupancy of a Building or structure after the Building or structure has been inspected to determine that construction has been undertaken in compliance with the Building Permit application and in conformity with the zoning ordinance and other pertinent ordinances or codes.

(6) "City" means the City of Franklin, Tennessee.

(7) "Credits" means the present value of future payments made by new Developments toward the costs of existing or future road improvements.

(8) "Developer" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver,

syndicate, or other group, combination or entity responsible for a new Development or a new Development Project.

(9) "Development" means new construction, Building , reconstruction, erection, extension, betterment or improvement of land providing a Building or structure or the addition to any Building or structure, or any part thereof, which provides, adds to or increases the Floor Area of a Residential or Nonresidential use.

(10) "Development Project" means an interrelated set of Developments, approved by the City pursuant to a subdivision plat, planned Development or other Development plan.

(11) "Dwelling Unit" means a room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or Dwelling Units which may be in the same structure; and containing independent cooking and sleeping facilities.

(12) "Floor Area" means 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 Building s or the centerlines of a party wall separating such Building s or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any Building or portions thereof without walls, but excluding in the case of Nonresidential facilities: arcades, porticoes and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service or production areas.

(13) "Intelligent Transportation System (ITS)" means a combination of computer technologies (Traffic Operations Center (TOC and signal systems), communication technologies (fiber optic and WiFi) and infrastructure (CCTV, DMS, RWIS and count stations), which allow the City to manage and operate the City's transportation system more efficiently and safely.

(14) "Nonresidential" means the Development of any property for any use other than Residential use, except as may be exempted by this Chapter.

(15) "Nonresidential Accessory Structure" means an enclosed storage shed which lacks heating and plumbing facilities and is used primarily for the storage of equipment, tools, heavy machinery and so forth, which are not for sale, retail or wholesale, to the general public; or an open perimeter shelter which may be open on one or more sides, which lacks heating and plumbing facilities and which may be used for the storage of materials available for sale, retail or wholesale, to the general public.

(16) "Non-Site Related Improvements" means land dedications or provisions of Arterial Road Improvements that are not for the exclusive use or benefit of a new Development and which are not Site-Related Improvements. Non-Site Related Improvements may be located wholly within a Development Project.

(17) "Offset" means a reduction in Impact Fees designed to fairly reflect the value of Non-Site Related Arterial Road Improvements provided by a Developer pursuant to the City's land use regulations or requirements.

(18) "Residential" means the Development of any property for a Dwelling Unit or units.

(19) "Road Impact Fee Administrator" means the City employee or employees designated by the City Administrator to administer this Chapter.

(20) "Service Area" means the entire area within the corporate boundaries of the City of Franklin.

(21) "Shopping Area" means an integrated group of commercial establishments planned, developed, owned and/or managed as a unit. A Shopping Area consists primarily of retail establishments, but may also contain some non-retail facilities, such as restaurants, medical or general offices. Fast food restaurants that are not physically attached to any other Buildings but are located within a Shopping Area will be treated as separate uses.

(22) "Site-Related Improvements" means land dedications or provision of road improvements which are for the exclusive or primary use or benefit of a new Development and/or which are for the exclusive or primary purpose of safe and adequate provision of road facilities to serve the new Development. (1976 Code, § 12-405, replaced by Ord. #2000-24, July 2000, and amended by Ord. #2005-27, May 2005)

16-406. Reserved. (1976 Code, § 12-406, as replaced by Ord. #2000-24, July 2000)

16-407. Applicability. This Chapter applies to all new Development in the City, unless such Development is expressly exempted. (1976 Code, § 12-407, as replaced by Ord. #2000-24, July 2000)

16-408. Impact Fee as Condition of Development Approval. No Building Permit nor Certificate of Occupancy for new Development in the City shall be issued unless and until the Road Impact Fee herein established has been paid in full by the Developer. (1976 Code, § 12-408, as replaced by Ord. #2000-24, July 2000)

16-409. Establishment of Service Area. There is hereby established a single Service Area for Arterial Road Improvements in the City, which shall consist of all area within the corporate boundaries of the City. The Service Area boundaries may be amended from time to time, or new Service Areas may be defined following notice and a public hearing. (1976 Code, § 12-409, as replaced by Ord. #2000-24, July 2000)

16-410. Impact Fee Schedule. 1) Every Developer shall pay a Road Impact Fee, computed by Service Area and by proposed land uses, according to

New Fee Schedule, Exhibit A, and Implementation of Fee Schedule, Exhibit B¹, attached hereto and incorporated by reference herein, except those paying a fee by an individual assessment of road impacts provided for in § 16-411 or otherwise exempted by this Chapter. The reference in the schedules to square feet refers to Floor Area as defined herein.

2) The Road Impact Fee Administrator shall be responsible for calculating the appropriate fee for all Building Permit applications. If the type of Development activity for which a Building Permit is applied is not specified on the fee schedule, the Road Impact Fee Administrator shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. The Road Impact Fee Administrator shall be guided in the selection of a comparable type by the Institute of Transportation Engineers' Trip Generation manual (latest edition), studies or reports done by the United States Department of Transportation or the state department of transportation, articles or reports appearing in the ITE Journal or other, similar sources. If the Road Impact Fee Administrator determines that there is no comparable type of land use on the fee schedule or that the fee schedule understates the cost to mitigate the road impacts of the Development due to the nature, timing or location of the proposed Development, the Road Impact Fee Administrator shall cause to be prepared an individual assessment pursuant to § 16-411.

3) If a Building Permit is requested for a Building with mixed uses, then the fee shall be determined by apportioning the total space within the Building according to the space devoted to each principal use. A Shopping Area shall be considered a principal use and shall be assessed at the general retail rate.

4) An application for a Building Permit to create an addition to an existing structure or to build another structure on the same site with an existing structure shall be subject to the payment of an Impact Fee, provided that only the new Residential units or Nonresidential square footage to be added to the existing structure or site shall be subject to the fee. Remodeling activity that does not increase the number of Residential units or the amount of Nonresidential square footage shall not require payment of an Impact Fee.

¹Exhibit A and Exhibit B can be found in the Appendix section of this code on page APP-1 and APP-2 respectively.

5) When a change or expansion of a land use or the redevelopment, replacement or modification of an existing Building or structure requires the issuance of a permit or Certificate of Occupancy, the Road Impact Fee shall be based upon the net increase in the Impact Fee for the new use as compared to the previous use. No Impact Fee Credits or refunds will be granted if a net decrease results. The previous use or structure shall be the most recent use of the site within the nine (9) years prior to the application for the Building Permit, provided that the applicant can provide records to confirm the previous Building size and land use.

6) If the Road Impact Fee has been calculated and paid based on error or misrepresentation, it shall be recalculated and the difference refunded to the original fee payer or collected by the City, whichever is applicable. If Road Impact Fees are owed, no permits of any type may be issued for the Building structure in question, or for any other portion of a Development of which the Building or structure in question is a part, until Impact Fees are paid. The Road Impact Fee Administrator may bring any action permitted by law or equity to collect unpaid fees.

7) The fees in Exhibit A and Exhibit B shall apply to all Residential Building Permits issued after the effective date of Ordinance 2011-07.

8) Nonresidential Development Projects whose site plans have been approved prior to the effective date of Ordinance 2011-07 shall be entitled to pay the fee in effect at the time of site plan approval, for so long as the site plan is valid. (1976 Code, § 12-410, replaced by Ord. #2000-24, July 2000, and amended by Ord. #2005-27, May 2005)

9) Nonresidential Development projects whose site plans have been submitted prior to July 1, 2011 are in the City's formal approval process shall be entitled to pay the fee in effect at the time of submission of the site plan as so long as all application and plan review fees have been paid to the City. Nonresidential Development projects whose site plans have been submitted after July 1, 2011 shall pay fees in accordance with this Chapter and subject to paragraph (10) below.

10) Implementation of the fees as indicated in Exhibit A shall occur over a three (3) year period with the fees and effective dates as indicated in Exhibit B attached hereto and incorporated by reference herein.

16-411. Individual Assessment of Road Impacts. 1) The Road Impact Fee for a proposed new Development shall be calculated by the use of an individual assessment of road impacts if:

a) The type of new Development is not of the type or reasonable equivalent thereof listed on the fee schedules attached as Exhibits A and B; or

b) The Road Impact Fee Administrator determines that the nature, timing or location of the proposed Development makes it likely to

generate impacts costing substantially more to mitigate than the costs attributable to the Development in the fee schedule; or

c) The Developer chooses to have the amount of the fee determined by such method.

2) The Developer shall be responsible for preparation of the individual assessment of road impacts if the Developer chooses to conduct such analysis. The Road Impact Fee Administrator shall be responsible for preparation of the individual assessment if the type of new Development being proposed is not of the type listed on the fee schedule, or the nature, timing or location of the proposed new Development makes it likely that Arterial Road Improvements will be necessary to serve the Development, the cost of which exceed the costs attributable to the Development in the fee schedule.

3) The person preparing the individual assessment of road impacts shall be a qualified professional, and shall be approved by the Road Impact Fee Administrator on the basis of professional training and experience.

4) The individual assessment of road impacts shall compute the Impact Fee per Residential unit or, in the case of Nonresidential Development, the Impact Fee per 1,000 square feet of Floor Area, using the following formula:

$$\text{IMPACT FEE} = \text{VMT} \times \text{COST/VMT} - \text{VMT} \times \text{CREDIT/VMT}$$

$$\begin{aligned} \text{VMT} &= \text{DAILY TRIPS} \times \% \text{ NEW} \times \text{LENGTH}/2 \\ \text{COST/VMT} &= \text{COST/VMC} \times \text{VMC/VMT} \\ \text{CREDIT/VMT} &= \text{Revenue credit per VMT} \end{aligned}$$

Where:

$$\begin{aligned} \text{DAILY TRIPS} &= \text{Trip ends during average weekday} \\ \% \text{ NEW} &= \text{Percent of trips that are primary, as opposed to} \\ &\quad \text{Pass-by or diverted-link trips} \\ \text{LENGTH} &= \text{Average length of a trip on the major road system} \\ 2 &= \text{Dividing by two avoids double-counting trips for origin} \\ &\quad \text{and destination} \\ \text{COST/VMC} &= \text{Average cost to add a new daily vehicle-mile of} \\ &\quad \text{capacity} \\ \text{VMC/VMT} &= \text{System-wide ratio of vehicle-miles of capacity to} \\ &\quad \text{vehicle-miles of travel on major road system} \\ &\quad \text{(assumed 1:1)} \end{aligned}$$

5) ~~The individual assessment of road impacts shall be prepared on an application form provided by the City.~~ The determination of the appropriate Impact Fee for the Development, based on the above formula, the information provided by the applicant and any other information determined to be relevant by the Road Impact Fee Administrator, shall be made by the Road Impact Fee Administrator.

6) The applicant may appeal the decision of the Road Impact Fee Administrator on the individual assessment to the board of mayor and aldermen pursuant to § 16-423, Appeals. (1976 Code, § 12-411, replaced by Ord. #2000-24, July 2000, and amended by Ord. #2005-27, May 2005)

16-412. Collection of Impact Fees. (1) The Road Impact Fee for a proposed new Development shall be computed in conjunction with the application for a Building Permit, and shall be collected prior to or simultaneous with the issuance of the Building Permit, unless otherwise provided herein.

(2) In the event that a Building Permit is not required for a new Development, the Road Impact Fee for the proposed Development shall be computed in conjunction with the application for a Certificate of Occupancy and shall be collected prior to or simultaneous with the issuance of the Certificate of Occupancy.

(3) Payment of all fees due shall be in cash or by check or money order. The Building and Neighborhood Services Department shall transmit to the office of the City Recorder all fees collected and a copy of all related fee transaction documents for recordation. The office of the City Recorder shall be responsible for depositing all collected fees in the appropriate trust fund accounts.

(4) A monthly summary of all fee collection transactions, by Service Area and type of use, shall be prepared by the Building and Neighborhood Services Department and transmitted to the offices of the City Administrator and the Road Impact Fee Administrator.

(5) In its sole discretion, the City Administrator may permit a Developer, upon application for a Building Permit, to defer payment of the Road Impact Fee due for a proposed new Development until time for issuance of a Certificate of Occupancy, provided that the Developer provides security for the full amount of the Road Impact Fee due in a form acceptable to the City and agrees to pay interest at an appropriate rate on the amount of the fees. (1976 Code, § 12-412, as replaced by Ord. #2000-24, July 2000)

16-413. Establishment of Account. (1) The City shall establish a separate, interest-bearing account into which each Impact Fee collected shall be deposited.

(2) Interest earned on the account into which the Impact Fees are deposited shall be considered funds of the account and shall be used solely for the purposes specified for the funds of such account.

(3) The office of the City Recorder shall maintain and keep financial records for each such account. Each account shall show the source and disbursement of all revenues which shall account for all monies received. The records of the account into which Impact Fees are deposited shall be open for public inspection and copying during ordinary business hours in the office of the

City Recorder. The City may establish a fee for copying services. (1976 Code, § 12-413, as replaced by Ord. #2000-24, July 2000)

16-414. Use of Proceeds of Impact Fee Accounts. (1) The Impact Fees collected pursuant to this Chapter may be used to finance Arterial Road Improvements. Impact Fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance such Arterial Road Improvements.

(2) Impact Fees collected pursuant to this Chapter may be used to pay the fees actually paid or contracted to be paid to qualified professionals preparing or updating Impact Fee studies and ordinances.

(3) Impact Fees collected pursuant to this Chapter shall not be used to pay for any of the following expenses:

(a) Construction, acquisition or expansion of public facilities or assets other than Arterial Road Improvements;

(b) Repair, operation, or maintenance of existing or new road improvements;

(c) Upgrading or replacing existing roadway facilities to serve existing Development;

(d) Administrative and operating costs of the City.

(4) The Road Impact Fee Administrator shall have the responsibility for tracking the expenditure of Road Impact Fee revenues by Service Area. (1976 Code, § 12-414, replaced by Ord. #2000-24, July 2000, and amended by Ord. #2005-27, May 2005)

16-415. Refunds. Any Road Impact Fee or portion thereof collected pursuant to this Chapter which has not been expended within eight (8) years from the date of payment, shall, upon application, be refunded to the record owner of the property for which the Impact Fee was paid or, if the Impact Fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund. All funds collected shall be deemed to be expended in the same order in which they were collected; that is, the funds collected first shall be expended first. Refunds shall be made only upon written application, which shall be filed with the Road Impact Fee Administrator within thirty (30) days of the expiration of the refund period. Refunds shall be made to the record owner of the property for which the Impact Fee was paid. (1976 Code, § 12-415, as replaced by Ord. #2000-24, July 2000)

16-416. Updates of Fees. (1) The City shall revise the Road Impact Fee study and the schedule of Impact Fees at least once every five years, and may do so more frequently, based upon growth in Residential and Nonresidential Development; Arterial Road Improvements actually constructed; changing levels of service or transportation needs; inflation; revised cost estimates for Arterial

Road Improvements; changes in the availability of other funding sources for Arterial Road Improvement projects; and such other factors as may be relevant.

(2) The City shall adopt the revised fee schedule by ordinance, following notice and public hearing. (1976 Code, § 12-416, as replaced by Ord. #2000-24, July 2000)

16-417. Offsets. (1) The City shall make no Offsets against Impact Fees due for a Development except pursuant to this Chapter.

(2) If the City, pursuant to duly adopted ordinance standards, requires the dedication of right-of-way ~~beyond 30 feet from the centerline~~ or construction of all or a portion of Non-Site Related Arterial Road Improvements, or monetary contributions toward such construction, it shall Offset the reasonable costs of such dedication, construction or monetary contributions against Road Impact Fees due for the Development.

(3) The following types of costs may be allowed for purposes of Offsetting the amount of Road Impact Fees due: land cost for right-of-way ~~in excess of 30 feet from the centerline of the roadway~~, the costs of labor, equipment, supplies and material used to construct the road facilities, and engineering and design costs. Fiscal costs, including interest on money borrowed to finance the construction, and costs for utility relocations are specifically excluded.

(4) The Offset value of rights-of-way shall be based on the appraised fair market value of the land at the date of application for the Development approval for which the condition of dedication was imposed. The appraisal shall be prepared by a professional real estate appraiser who is a member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA). The Road Impact Fee Administrator retains the right to independently determine the amount of Offset to be approved by securing other property appraisals.

(5) The Offset value of improvements shall be based upon the actual cost of the eligible improvements or reasonable unit values at the time the construction occurred as determined by the City engineer using comparable recent transactions, whichever is less.

(6) Offsets shall be computed and subtracted from Impact Fees due prior to the issuance of any Building Permit or Certificate of Occupancy for the Development, or, in the case of a Development Project, pursuant to an agreement with the City executed pursuant to § 16-418.

(7) In no event may the City apply an Offset which is greater than the applicable Impact Fees due from the Development Project.

(8) For a Development Project, a Developer may execute an agreement with the City pursuant to § 16-418, which allocates the Offsets among Developments within the same Development Project. Unless a different method of allocating Offsets is agreed upon by the City and Developer and incorporated into an agreement pursuant to § 16-418, the following procedure shall be used

for allocating the Offsets to individual Developments within a Development Project. The City shall apply the Offset against the Impact Fee that would otherwise be due for the first application for a Building Permit or Certificate of Occupancy within the project. If the Offsets for the Development Project exceed the Road Impact Fee collected for the Development, the City shall apply the balance of the Offsets to the next application for a Building Permit within the project. This procedure shall continue until there are no more Offsets to be applied within the project. The Road Impact Fee Administrator shall maintain records of the Offsets balance for each Development Project for which Offsets are due.

(9) A Developer seeking Offsets against Road Impact Fees shall submit an application to the Building and Neighborhood Services Department prior to or in conjunction with an application for a Building Permit or, if a Building Permit is not required, prior to or in conjunction with an application for a Certificate of Occupancy. The application shall describe the improvements and their associated costs and shall provide information demonstrating the eligibility of such improvements for Offsets. ~~In the case of Arterial Road Improvements completed prior to the effective date of Ordinance 1037, the application shall show that improvement costs were incurred within one (1) year prior to such date.~~

(10) The Building and Neighborhood Services Department shall forward the completed application to the Road Impact Fee Administrator. The Road Impact Fee Administrator shall review the application and, with the recommendation of the City Engineer, shall determine which improvement costs are eligible for Offsets and the value attributed to such improvement costs within ten (10) working days of accepting a completed application for Offsets. An applicant may appeal the decision of the Road Impact Fee Administrator pursuant to § 16-423.

(11) All Offset agreements between the City and any Developer shall be for the Impact Fee applicable at the time the agreement was entered. (1976 Code, § 12-417, as replaced by Ord. #2000-24, July 2000)

16-418. Contract for Construction of Improvements. (1) A Developer may elect to dedicate, construct or finance an Arterial Road Improvement, and to Offset the costs of such dedication, construction or monetary contributions as may be required by the City, by entering into an agreement with the City prior to the issuance of any Building Permit for the Development or Development Project. The agreement shall be on a form approved by the City and shall identify the estimated cost of the Arterial Road Improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement be designed and completed to City standards and such other terms and conditions as deemed necessary by the City. The City Engineer shall determine the amount of the Offset to be given against Impact Fees due for the Development or Development Project. Such Offsets, together with any provisions relating to the allocation of

Offsets among Developments within the Development Project, shall be incorporated in the agreement. ~~Arterial Road Improvements otherwise qualifying for an Offset which were made by a Developer within one year preceding the effective date of this Chapter shall be considered to have been made by election for purposes of this section.~~

(2) In the event that the City elects to reimburse a Developer for the dedication, construction or financing of an Arterial Road Improvement or portion thereof in excess of the amount of Road Impact Fees that would otherwise be due from the Development or Development Project from the proceeds of Road Impact Fees collected from other new Developments, the terms of reimbursement shall be incorporated in the agreement required by subsection (1). (1976 Code, § 12-418, as replaced by Ord. #2000-24, July 2000)

16-419. Use of Other Financial Mechanisms. (1) The City may finance Arterial Road Improvements through the issuance of bonds, through the formation of assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of Impact Fees.

(2) Except as herein otherwise provided, the collection of a Road Impact Fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is imposed on and due against the property under the authority granted by private or public acts of the State of Tennessee. (1976 Code, § 12-419, as replaced by Ord. #2000-24, July 2000)

16-420. Impact Fee as Additional and Supplemental Regulation. The Road Impact Fee established by this Chapter is additional and supplemental to, and not in substitution of, any other requirements imposed by the City on the Development of land or the issuance of Building Permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the City's long range plan, the capital improvements plan, the zoning ordinance, subdivision regulations and other City policies, ordinances and resolutions by which the City seeks to ensure the provision of public facilities in conjunction with the Development of land. (1976 Code, § 12-420, as replaced by Ord. #2000-24, July 2000)

16-421. Exemptions from Chapter. (1) The provisions of this Chapter shall not apply to construction by the federal or state government or any political subdivision thereof which has the power to assess taxes on real or personal property; provided, however, that this Chapter shall apply to any non-taxing public or quasi-public entity and to all not-for-profit entities.

(2) The provisions of this Chapter shall apply only prospectively, and any new Development which has been assessed and has paid a street improvement and access fee prior to the effective date of this Chapter shall not be required to pay a Road Impact Fee as a condition for the issuance of a

Comment [A1]: Should BOMA decide to allow some leniency to affordable housing in the payment of Impact Fees, this is the place to set up the allowance or exemption.

Building Permit or Certificate of Occupancy, unless the Development proposed in such application increases the number of Residential units or the intensity of use for Nonresidential Development, in which case a Road Impact Fee computed pursuant to this Chapter shall be imposed on such increases. A property owner claiming exemption from payment of an Impact Fee pursuant to this section shall present receipts or other documents showing the amount of payment and the kinds of construction for which payment was made in compliance with the provisions of ordinance 998 establishing street access fees.

(3) Nonresidential accessory structures shall be exempt from payment of the Road Impact Fee. (1976 Code, § 12-421, as replaced by Ord. #2000-24, July 2000)

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16-422. Relief Procedures. (1) The Franklin Board of Mayor and Aldermen may grant a variance or waiver from requirement of this Chapter, upon written request by a Developer or owner of property subject to this Chapter. The request shall present the grounds for the waiver or variance and shall be presented to the Building and Neighborhood Services Department, which shall forward it to the Road Impact Fee Administrator. The Road Impact Fee Administrator shall schedule a public hearing before the Board of Mayor and Aldermen to consider the request. The Board of Mayor and Aldermen shall grant the waiver or variance only upon finding that a strict application of such requirement would result in confiscation of the property taking into consideration all uses that are permitted by right or conditionally under existing Development regulations. If the Board of Mayor and Aldermen makes the requisite findings, they shall reduce the Impact Fee due by only that amount necessary to enable the property owner to make a reasonable return on the investment in the property.

(2) If the Franklin Board of Mayor and Aldermen grants a variance or waiver to the amount of the Impact Fee due for a new Development under this section, it shall cause to be appropriated from other City funds the amount of the reduction in the Impact Fee to the account for the Service Area in which the property is located. The Road Impact Fee Administrator shall keep a record of all waivers and variances granted pursuant to this section by Service Area. Prior to the commencement of the next ensuing fiscal year, the Board of Mayor and Aldermen shall appropriate an amount equal to the sum of all waivers and variances granted within the Service Area, and shall cause said amount to be transferred to the Impact Fee account for the Service Area, which shall thereafter be considered funds of the amount. Said funds shall be appropriated from any source other than from the proceeds of Impact Fees in accordance with the laws of the state. (1976 Code, § 12-422, as replaced by Ord. #2000-24, July 2000)

16-423. Appeal. The Developer or owner of property for which an Impact Fee is owed may appeal the Road Impact Fee Administrator's decision on an independent assessment of road impacts or the computation of an Offset pursuant to § 16-417 by filing a petition with the Franklin Board of Mayor and Aldermen. (1976 Code, § 12-423, as replaced by Ord. #2000-24, July 2000)

SECTION II: BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect on July 1, 2011 after its passage on second and final reading, the health, safety, and welfare of the citizens requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
City Recorder/Administrator

BY: _____
DR. KEN MOORE
Mayor

Approved as to Form

By: _____
Shauna R. Billingsley
City Attorney

PASSED FIRST READING

PUBLIC HEARING

PASSED SECOND READING

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EXHIBIT A

NEW FEE SCHEDULE¹

<u>Land Use Type</u>	<u>Unit</u>	<u>Daily VMT</u>	<u>Cost/ VMT</u>	<u>Cost/ Unit</u>	<u>Credit/ VMT</u>	<u>Credit/ Unit</u>	<u>Impact Fee</u>
Single-Family Detached	Dwelling	18.87	\$515	\$9,718	\$291	\$5,491	\$4,227
Multi-Family	Dwelling	12.35	\$515	\$6,360	\$291	\$3,594	\$2,766
Mobile Home Park	Site	9.28	\$515	\$4,779	\$291	\$2,700	\$2,079
Congregate Care Facility	Dwelling	4.21	\$515	\$2,168	\$291	\$1,225	\$943
Hotel/Motel	Room	10.49	\$515	\$5,402	\$291	\$3,052	\$2,350
<u>Retail/Commercial</u>							
Shopping Center/General Retail	1000 sq. ft.	26.77	\$515	\$13,786	\$291	\$7,790	\$5,996
Restaurant, Quality	1000 sq. ft.	49.57	\$515	\$25,529	\$291	\$14,425	\$11,104
Restaurant, Fast Food	1000 sq. ft.	72.19	\$515	\$37,178	\$291	\$21,007	\$16,171
<u>Office/Institutional</u>							
Office	1000 sq. ft.	18.06	\$515	\$9,300	\$291	\$5,255	\$4,045
Hospital	1000 sq. ft.	25.80	\$515	\$13,287	\$291	\$7,508	\$5,779
Nursing Home	1000 sq. ft.	11.85	\$515	\$6,102	\$291	\$3,448	\$2,654
Church	1000 sq. ft.	10.74	\$515	\$5,531	\$291	\$3,125	\$2,406
Elementary/Sec. School	1000 sq. ft.	5.29	\$515	\$2,724	\$291	\$1,539	\$1,185
<u>Industrial</u>							
Manufacturing	1000 sq. ft.	7.93	\$515	\$4,084	\$291	\$2,308	\$1,776
Industrial Park	1000 sq. ft.	14.45	\$515	\$7,442	\$291	\$4,205	\$3,237
Business Park	1000 sq. ft.	26.49	\$515	\$13,642	\$291	\$7,708	\$5,934
Warehouse	1000 sq. ft.	7.39	\$515	\$3,805	\$291	\$2,150	\$1,655
Mini-Warehouse	1000 sq. ft.	3.61	\$515	\$1,859	\$291	\$1,050	\$809

1 This New Fee Schedule is based on the needs as established by the November 2010 Road Impact Fee Update Study as prepared by Duncan Associates using those fees required to cover the cost of Arterial Streets as identified in the Franklin Major Thoroughfare Plan with the inclusion of the cost of rights-of-way (ROW).

**EXHIBIT B
IMPLEMENTATION OF FEE SCHEDULE**

Land Use Type	Unit	IMPACT FEE				
		Current Fee (App. 2007)	Fee Needed 2010 Update	Effective ¹ 1-Jul-11	Effective ² 1-Jul-12	Effective ³ 1-Jul-13
Single-Family Detached	Dwelling	\$ 2,191	\$ 4,227	\$ 2,700	\$ 3,514	\$ 4,227
Multi-Family	Dwelling	\$ 1,537	\$ 2,766	\$ 1,844	\$ 2,336	\$ 2,766
Mobile Home Park	Site	\$ 1,144	\$ 2,079	\$ 1,378	\$ 1,752	\$ 2,079
Congregate Care Facility	Dwelling	\$ 440	\$ 943	\$ 566	\$ 767	\$ 943
Hotel/Motel	Room	\$ 1,126	\$ 2,350	\$ 1,432	\$ 1,922	\$ 2,350
Retail/Commercial						
Shopping Center/General Retail	1000 sf	\$ 2,681	\$ 5,996	\$ 3,510	\$ 4,836	\$ 5,996
Restaurant, Quality	1000 sf	\$ 4,964	\$ 11,104	\$ 6,499	\$ 8,955	\$ 11,104
Restaurant, Fast Food	1000 sf	\$ 7,177	\$ 16,171	\$ 9,426	\$ 13,023	\$ 16,171
Office/Institutional						
Office	1000 sf	\$ 1,891	\$ 4,045	\$ 2,430	\$ 3,291	\$ 4,045
Hospital	1000 sf	\$ 2,867	\$ 5,779	\$ 3,595	\$ 4,760	\$ 5,779
Nursing Home	1000 sf	\$ 996	\$ 2,654	\$ 1,411	\$ 2,074	\$ 2,654
Church	1000 sf	\$ 1,127	\$ 2,406	\$ 1,447	\$ 1,958	\$ 2,406
Elementary/Secondary School	1000 sf	\$ 543	\$ 1,185	\$ 704	\$ 960	\$ 1,185
Industrial						
Manufacturing	1000 sf	\$ 830	\$ 1,776	\$ 1,067	\$ 1,445	\$ 1,776
Industrial Park	1000 sf	\$ 1,513	\$ 3,237	\$ 1,944	\$ 2,634	\$ 3,237
Business Park	1000 sf	\$ 2,773	\$ 5,934	\$ 3,563	\$ 4,828	\$ 5,934
Warehouse	1000 sf	\$ 1,078	\$ 1,655	\$ 1,222	\$ 1,453	\$ 1,655
Mini-Warehouse	1000 sf	\$ 388	\$ 809	\$ 493	\$ 662	\$ 809

1 - The Impact Fees effective July 1, 2011 are calculated at twenty-five percent (25%) of the increase for Fees from the current fee schedule to that as indicated being needed by the November 2010 Road Impact Fee Update Study.

2 - The Impact Fees effective July 1, 2012 are calculated at sixty-five percent (65%) of the increase for Fees from the current fee schedule to that as indicated being needed by the November 2010 Road Impact Fee Update Study.

3 - The Impact Fees effective July 1, 2013 is the Impact Fees needed as indicated in the November 2010 Road Impact Fee Update Study.