

ORDINANCE 15-04

AN ORDINANCE TO AMEND SPRING HILL MUNICIPAL CODE, CHAPTER 5, IMPACT FEE-PURPOSES AND ADMINISTRATION

WHEREAS, the Board of Mayor and Aldermen for the City of Spring Hill may, pursuant to its charter and the general laws of the State of Tennessee, have right to enact and amend the Spring Hill Municipal Code. Said amendments being within the adopted purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community; and

WHEREAS, the Board of Mayor and Alderman of the City of Spring Hill desires to update Roadway Impact Fees in order to establish a fund and fee schedule, to be dedicated toward the construction of arterial roadway improvements.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Alderman for the City of Spring Hill, Tennessee, that the Spring Hill Municipal Code, Chapter 5, Impact Fee-Purposes and Administration be amended as follows, including the adoption of the attached Roadway Impact Fee Schedule:

IMPACT FEE - PURPOSES AND ADMINISTRATION

SECTION

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5-501. Short title. This chapter shall be known and cited as the Spring Hill Development Public Facilities Privilege Tax and Impact Fee chapter. (1995 Code, §501)

5-502. Findings. The Board of Mayor and Aldermen (“Board” or “Council”) hereby finds and declares that:

(1) The City is committed to the provision of public facilities and services at levels attainable within its resources to cure any existing public service deficiencies in already developed areas;

(2) Such facilities and services levels will be provided by the City utilizing available funds allocated via the capital budget and capital improvements programming processes and relying upon the funding sources indicated therein;

(3) However, new residential and nonresidential development is aggregated in certain development subareas within areas annexed after the Saturn announcement in July of 1985 (the subareas). Such development causes and imposes increased and excessive demands on city public facilities and services including, without limitation, sanitary sewers, storm sewers, water lines, water tanks, a fire hall, fire trucks and police cars, safety and rescue equipment, public works machinery, roads, and parks that would not otherwise be necessary;

(4) Planning and zoning projections indicate that such development will continue and will place ever increasing demands on the City to provide necessary public facilities;

(5) The development potential and property values of properties in the designated development areas are strongly influenced and encouraged by city policy as expressed in the City Zoning Ordinance and map;

(6) To the extent that such developments in recently annexed areas place demands on the public facility infrastructure those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public at large to the developments actually creating the demands;

(7) The amount of the impact fee and privilege tax (hereinafter individually and collectively sometimes referred to as "impact fees") to be imposed shall be determined by the cost of the additional public facilities needed to support such development, which public facilities shall be identified in the capital improvements program; and

(8) The Board of Mayor and Aldermen, after careful consideration of the matter, hereby finds and declares that an impact fee imposed upon residential and nonresidential development in order to finance specified major public facilities in designated development areas the demand for which is created by such development is in the best interest of the general welfare of the City and its residents, is equitable, does not impose an unfair burden on such development by forcing developers and builders to pay more than their fair or proportionate share of the cost, and deems it advisable to adopt this chapter as hereinafter set forth. (1995 Code, § 5-502)

5-503. Intent. This chapter is intended to impose an impact fee at the time of building permit or certificate of occupancy issuance, in an amount based upon the gross square footage of residential or nonresidential development and number of such units in order to finance public

facilities, the demand for which is generated by new development in annexed development subareas. The City will meet, to the extent finances permit through the use of general city revenues, all capital improvement needs associated with existing development. Only needs created by new development in the designated development areas will be met by impact fees. Impact fees shall not exceed the cost of providing capital improvements for which the need is substantially attributable to those developments that pay the fees. The fees shall be spent on new or enlarged capital facilities improvements that substantially benefit those developments that pay the fees. (1995 Code, § 5-503)

5-504. Authority. This chapter is passed pursuant to the general laws of the State of Tennessee, the charter of the City of Spring Hill, including Tennessee Code Annotated, § 6-2-201(14) and (15), and Priv. Acts 1988, ch. 173 (HB 2436) of the Tennessee General Assembly. The provisions of this chapter shall not be construed to limit the power of the City to adopt such chapter pursuant to any other source of local authority or to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this chapter. (1995 Code, § 5-504)

5-505. Definitions. As used in this chapter, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

(1) “Building permit” shall mean the permit required for new construction and additions pursuant to the International Building Code heretofore adopted. The term “building permit”, as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in gross floor area or number of dwelling units resulting therefrom.

(2) “Capital budget” means a separate budget dedicated to financing capital improvements.

(3) “Capital improvements” means public facilities that are treated as capitalized expenses according to generally accepted accounting principles and does not include costs associated with the operation, administration, maintenance, or replacement of capital improvements, nor does it include administrative facilities.

(4) “Capital improvement plan” shall be a part of the comprehensive plan adopted by Resolution No. 94-1.

(5) “Capital improvements” shall mean any and/or all of the following, and including acquisition of land, construction, improvements, equipping, and installing of same and which facilities are identified in the capital improvements plan to be financed by the imposition of an impact fee:

- (a) Parks and recreational facilities;
- (b) Road systems;

(c) Sanitary sewers and wastewater treatment facilities;
(d) Water treatment and distribution facilities;
(e) Storm and flood control facilities;
(f) Police and fire facilities;
(g) Solid waste facilities;
(h) Other facilities the costs of which may be substantially attributed to new development; and

(6) “Capital improvements program” means the official adopted schedule of capital improvements to be undertaken.

(7) “Council/Board” means the duly constituted governing body of the City of Spring Hill, State of Tennessee.

(8) “Development” shall mean any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit.

(9) “Development subareas” shall mean the city limits and the Urban Growth Boundary in which development potential may create the need for capital improvements program to be funded by impact fees.

(10) “Development subarea map” shall mean areas annexed to the City of Spring Hill since July of 1982 as if fully set out.

(11) “Gross floor area” means the total square feet of enclosed space on the floor or floors comprising the structure.

(12) “Impact fee” shall mean any construction privilege tax charge, fee, or assessment levied as a condition of issuance of a building permit or development approval when any portion of the revenues collected is intended to fund any portion of the costs of capital improvements or any public facilities.

(13) “Impact fee coefficient” shall mean the charge per square foot of nonresidential development or per dwelling unit as calculated for each designated development subarea by dividing total public facility costs by the gross square footage and/or number of dwelling units.

(14) “Residential development” means any development approved by the local government for residential use.

(15) “Site” means the land on which development takes place.

(16) “City” means the City of Spring Hill, a duly constituted political subdivision of the State of Tennessee.

(17) “Zoning districts” are those areas designated in the Zoning Ordinance as being reserved for specific land uses, subject to development and use regulations specified in the ordinance.

(18) “Zoning Ordinance” means the official adopted zoning map and text regulating all development and land use in Spring Hill, Tennessee. (1995 Code, § 5-505)

5-506. Applicability of impact fee. This chapter shall be uniformly applicable to development that occurs within the city limits and the Urban Growth Boundary. (1995 Code, § 5-506)

5-507. Imposition of impact fee.

(1) No building permit shall be issued for a development in unless the impact fee is imposed and calculated pursuant to this chapter.

(2) Impact fees shall not exceed the cost of providing capital improvements for which the need is reasonably attributable to those developments that pay the fees. The fees shall be spent on new or enlarged capital improvements that reasonably benefit those developments that pay the fees.

(3) That portion of impact fee revenues reasonably attributable to the equitable assessment described in subsection (2) of this section may be spent on new or enlarged capital improvements that will reasonably benefit anticipated future development rather than those developments that have paid the fee.

(4) Impact fees that are assessed against new development shall be assessed in such a manner that any new development having the same impacts on capital facilities shall be assessed the same impact fee. This provision notwithstanding, the local governing body may contribute from the general fund any part or all of the impact fee assessed against certain new development that achieves other policies, including, but not limited to, the provision of affordable housing and the retention of existing employment or the generation of new employment. (1995 Code, § 5-507)

5-508. Capital improvements program. To service the projected development, capital improvements will be required to be provided and financed via impact fees. (1995 Code, § 5-508) In the specific case of roadway impact fees, only roadways classified as arterial roadways are eligible for use of roadway impact fees.

5-509. Administration of impact fee.

(1) Transfer of funds to finance department. Upon receipt of impact fees, the City Finance Department shall be responsible for placement of such funds into separate accounts as hereinafter specified. All such funds shall be deposited in interest-bearing accounts in a bank

authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account. The City Engineer, or his or her designee, shall be responsible for oversight of the program and ensuring that impact fees are properly expended towards eligible projects.

(2) Establishment and maintenance of accounts. The City Finance Department shall establish separate accounts and maintain records for each such account whereby impact fees collected can be segregated.

(3) Maintenance of records. The City Finance Department shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; that shall account for all monies received; that shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program for the particular development subarea; and that shall provide an annual accounting for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

(4) Review and modification. The City shall review, in conjunction with the capital budget and capital improvements plan adoption processes, the development potential of the City and the capital improvements plan and make such modifications to impact fee schedules as are deemed necessary every three years as a result of:

- (a) Development occurring in the prior years;
- (b) Capital development potential of the City and the capital improvements actually constructed;
- (c) Changing facility needs;
- (d) Inflation;
- (e) Revised cost estimates for capital improvements;
- (f) Changes in the availability of other funding sources applicable to public facility projects; and
- (g) Such other factors as may be relevant. (1995 Code, § 5-509)

5-510. Bonding of excess facility projects. The City may issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law in furtherance of the provision of capital improvement projects. Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for such projects may include the fees and taxes herein imposed and impact fees and other city revenues as may be allocated by the City Council. Impact fees paid pursuant to this chapter, however, shall be restricted to use solely and exclusively for financing directly, or as a pledge against bonds, revenue certificates, and other obligations of indebtedness for the cost of capital improvements as specified herein. (1995 Code, § 5-510)

5-511. Refunds.

(1) The current owner or contract purchaser of property on which an impact fee has been paid may apply for a refund of such fee if:

(a) The City has failed to provide a capital improvement eligible for use of funds paid within six (6) years of the date of payment of the impact fee, or

(b) The project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact fee due.

(2) A petition for refund must be filed within one (1) year of the event giving rise to the right to claim a refund.

(3) The petition for refund must be submitted to the City Engineer, or his or her designee, on a form provided by the City for such purpose.

(4) Within one (1) month of the date of receipt of a petition for refund, the City Engineer, or his or her duly designated agent, must provide the petitioners in writing, with a decision on the refund request including the reasons for the decision. If a refund is due petitioner, the City Engineer, or his or her duly designated agent, shall notify the Finance Department and request that a refund payment be made to petitioner. The City Engineer, or his or her designee, shall publicly disclose all refunds made on behalf of the City to the Board of Mayor and Alderman in a public meeting.

(5) Petitioner may appeal the determination of the City Engineer to the City Council. (1995 Code, § 5-511)

5-512. Appeals. After determination of the applicability of the impact fee, an applicant for a building permit or a property owner may appeal the amount of the impact fee or refund due to the City Council. The applicant must file a notice of appeal with the City Council within thirty (30) days following the determination of the applicability of the impact fee ordinance, the impact fee, or refund due. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the municipal counsel in an amount equal to the impact fee due, as calculated by the City Engineer, or his or her designee, the chief building official shall issue the building permit. The filing of an appeal shall not stay the collection of the impact fee due unless a bond or other sufficient surety has been filed. (1995 Code, § 5-512)

5-513. Effect of impact fee on zoning and subdivision regulations. This chapter shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development. (1995 Code, § 5-513)

5-514. Impact fee as additional and supplemental requirement. The impact fee 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. It is intended to be consistent with and to further the objectives and policies of the capital improvements plan, 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. In no event shall a property owner be obligated to pay for capital improvements in an amount in excess of the amount calculated pursuant to this and any other impact fee or similar ordinance; but, provided that a property owner may be required to pay, pursuant to city ordinances, regulations, or policies, for other capital improvements in addition to the impact fee for capital improvements as specified herein. (1995 Code, § 5-514)

5-515. Variances and exceptions. Petitions for variances and exceptions to the application of this chapter shall be made to the Mayor in accordance with procedures to be established by resolution of the City Council. (1995 Code, § 5-515)

5-516. Credits.

(1) A property owner may elect, with written permission of the Council, to construct an eligible capital improvement listed in the capital improvements plan. If the property owner elects to make such improvement, the property owner must enter into an agreement with the City prior to issuance of any building permit. The agreement must establish the estimated cost of the improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement be completed to city standards, and such other terms and conditions as deemed necessary by the City. The City must review the improvement plan, verify costs and time schedules, determine if the improvement is an eligible improvement, and determine the amount of the applicable credit for such improvement to be applied to the otherwise applicable impact fee prior to issuance of any building permit. In no event may the City provide a refund for a credit that is greater than the applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the property owner may utilize such excess credit toward the impact fees imposed on other building permits for development on the same site and in the same ownership.

(2) No credits shall be given for the construction of local on-site facilities required by zoning, subdivision, or other city regulations. (1995 Code, § 5-516)

5-517. Roadway Impact Fee Schedules. The Board of Mayor and Aldermen shall review the roadway impact fee schedule at least every three (3) years or on a sooner basis as deemed necessary by the Board of Mayor and Aldermen. In the event that a proposal is presented to eliminate roadway impact fees or reduce the roadway impact fee schedule below an amount based on capital improvement needs, an amendment to this Ordinance shall have to pass two-thirds (2/3) vote to repeal or significantly reduce roadway impact fees.

5-518. Roadway Impact Fee Calculations. For each land use, a demand factor shall be determined for use in calculating the appropriate roadway impact fee. The demand factors shall be based on the estimated trip generation rates for various land uses as identified in the latest edition of the ITE Trip Generation. In order to avoid double counting of vehicular trips between land uses, the ITE Trip Generation rate shall be divided by two (2) to determine the appropriate demand factor.

The base trip cost shall be determined by dividing the cost of the projected arterial roadway projects by the estimated daily trips projected for a ten (10)-year horizon. This calculation is detailed in Exhibit A – Base Trip Calculation.

5-519. Severability. If any section, phrase, sentence or portion of this Ordinance is held invalid or unconstitutional, same shall not affect the validity of the remaining portions hereof.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee, on this ____ day of _____, 2015.

Rick Graham, Mayor

ATTEST:

April Goad, City Recorder

LEGAL FORM APPROVED:

Patrick M. Carter, City Attorney

Passed on First Reading: _____

Passed on Second Reading: _____