

ORDINANCE NO. 2003-3

AN ORDINANCE PROVIDING FOR THE IMPOSITION OF A PUBLIC SCHOOL IMPACT FEE ON ALL NEW RESIDENTIAL DEVELOPMENT; AND PROVIDING FOR AN EFFECTIVE DATE OF NOVEMBER 24, 2003.

AMENDED March 16th, 2006 with an Effective Date of April 1st, 2006

WHEREAS, pursuant to the Local Powers Act, W.Va. Code § 7-20-1 *et seq.*, counties in West Virginia have been authorized to adopt impact fees to fund capital improvements, including public primary and secondary school facilities, required to accommodate new development projects, subject to compliance with the provisions of the Local Powers Act; and

WHEREAS Jefferson County, West Virginia (the "County"), has satisfied all of the requirements set forth in W.Va. Code § 7-20-6 as a prerequisite to the imposition of impact fees; and

WHEREAS the Jefferson County Commission (the "County Commission") retained Tischler & Associates, Inc. (the "Consultants") to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on the County for public schools and Board of Education support buildings, vehicles and equipment; and

WHEREAS the Consultants additionally reviewed the existing demand for public schools and education related support buildings and equipment; the existing public school system available to meet that demand; and the method of financing the existing public school system; and

WHEREAS the County has adopted the methodology used by the consultant for the purpose of conducting updates to the school impact fee; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the County has reviewed the existing level of service standards; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the County has relied upon the actual costs of recent school projects for a determination of the costs of public schools and education related support buildings; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the public school impact fee will be imposed only on new residential development in the County; and

WHEREAS the County has reviewed and relied upon the County Comprehensive Plan which was revised in March of 2004, and the County's six-year Capital Improvements Program; and [Amended by Act of the County Commission, effective October 20, 2005] [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the population and new residential development projections for the County indicate: (1) that the population of the County will increase from approximately 44,367 persons in the year 2002 to approximately 71,820 persons in the year 2022; and (2) that housing units will increase from approximately 18,558 in the year 2002 to approximately 27,837 in the year 2022; and

WHEREAS the types of facilities and associated costs that are included in this impact fee cover land acquisition for school buildings and education related support buildings; construction of schools and other buildings; construction of relocatable classrooms; and construction of certain indoor and outdoor equipment; and

WHEREAS the public school impact fee calculation methodology is an incremental expansion methodology, as described in the Impact Fees Report for Jefferson County, West Virginia (prepared by Tischler & Associates, Inc., June 11, 2003, and subsequently updated by the County in January of 2006) with all costs attributable 100% to residential development, and excluding non-residential development; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS, in calculating the appropriate impact fee to be imposed on new residential development, the County assumed that the existing level of service standards would be maintained in the future and that the cost of the construction of new public elementary and secondary schools to serve the demand imposed by new growth would be paid for entirely by the public school impact fees; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the replacement cost for Board of Education support buildings is \$465 per student, and the replacement cost of Board of Education equipment is \$933 per student; and

WHEREAS the net capital cost per student for new schools, including land and facilities, is \$19,640 per student for elementary schools, \$19,424 per student for middle schools, and \$21,946 per student for high schools; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the County has determined that residents are entitled to a credit of \$214 per single family home, \$162 per townhouse, and \$120 per multi-family unit for future real payments of that portion of real property taxes which pays for principal payments on public school bonds; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the County has prepared an Impact Fees Report (February 7, 2006) including the public school impact fee assumptions, population and residential development projections,

capital improvements and impact fee calculations, which Report has been reviewed by County staff and officials; and [amended by an Act of the County Commission, March 16th, 2006]

WHEREAS the Impact Fees Report has been presented to and reviewed by the County Commission, which has determined: (1) that the public school impact fee is necessary to offset the costs associated with meeting the demand for future public schools and education related support buildings, pursuant to the development projections; (2) that the public school impact fee bears a reasonable relationship to the burden imposed upon the County to provide new public schools and education related support buildings to new residents, and provides a benefit to such new residents reasonably related to the public school impact fee, per dwelling unit, by type; (3) that an “essential nexus” exists between the projected new residential development and the need for additional public schools and education related support buildings to be funded via the public school impact fee; and (4) that the amount of the public school impact fee is “roughly proportional” to the pro rata share of the additional public schools and education related support buildings needed to provide adequate public schools to new residential development, while maintaining not less than the existing level of service (LOS) standard currently provided to County residents; and

WHEREAS the County Commission has adopted an Impact Fees Procedures Ordinance setting forth the procedures for the imposition and collection of impact fees; and

WHEREAS the County Commission has conducted a public hearing on the proposed public school impact fee; and

WHEREAS the public school impact fee adopted pursuant to this Ordinance shall be effective on November 24, 2003.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the County Commission of Jefferson County, West Virginia, that:

SECTION 1. ADOPTION OF PUBLIC SCHOOL IMPACT FEE.

(1) The applicable development/service area (the "Service Area") for imposition of a Public School Impact Fee is the entire County, including all incorporated Municipalities.

(2) All new dwelling units in the Service Area shall be subject to the payment of a Public School Impact Fee payable at the time of issuance of a building permit by the County or a Municipality, as applicable, pursuant to this Section and the Impact Fee Procedures Ordinance, as follows:

<u>Residential Development</u>	<u>Impact Fee Per Dwelling Unit</u>
Single Family Detached, including mobile homes	\$ 9,877.00
Townhouse/Duplex	\$ 7,444.00
Multi-family unit	\$ 5,484.00

[Amended by an Act of the County Commission on October 20th, 2005 and with an effective date of December 1st, 2005; Amended by an Act of the County Commission on March 16th, 2006 and with an effective date of April 1st, 2006]

(3) On April 1, 2004, and on April 1st of each year thereafter in which the Public School Impact Fee is in effect, the amount of the development impact fee, per dwelling unit, shall be adjusted pursuant to the Annual Review process as set forth in Section 6 of the Impact Fee Procedures Ordinance.

(4) Nothing herein shall prevent the County Commission from electing to retain the existing Public School Impact Fee or from electing to waive the adjustment for any given fiscal year, or years.

SECTION 2. LIBERAL CONSTRUCTION.

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of further promoting and protecting the public health, safety and welfare.

SECTION 3. SEPARABILITY.

(1) If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance which shall continue in full force and effect.

(2) If the application of any provision of this Ordinance to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of the County Commissioners is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other new development.

SECTION 4. EFFECTIVE DATE; ELECTION.

(1) This Ordinance shall be effective on November 24, 2003; however, no Public School Impact Fee shall be collected by the County until the sixty-first (61st) day after the date of the adoption of this Ordinance.

(2) In the event that, within forty-five days after the effective date of this Ordinance, fifteen percent (15%) of the qualified voters of the County file with the County Commission a

petition, duly signed by them in their own handwriting, the fee or levy protested may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of the County at any primary, general or special election as the County Commission directs. Voting thereon may not take place until after notice of the subcommission of the fee or levy on the ballot has been given by publication of class II legal advertisement and publication area shall be the County.

The undersigned hereby certifies that this Ordinance was approved and adopted by the Jefferson County Commission on the 24th day of November, 2003. This ordinance was subsequently amended by an Act of the County Commission on October 20th, 2005 and again on March 16th, 2006.

JEFFERSON COUNTY COMMISSION

ATTEST:

President