

ORDINANCE NO. 2005-1

**AN ORDINANCE PROVIDING FOR THE IMPOSITION OF A LAW ENFORCEMENT IMPACT FEE ON ALL NEW RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT; AND PROVIDING FOR AN EFFECTIVE DATE OF JANUARY 20, 2005.**

AMENDED March 13, 2008 with an Effective Date of April 1<sup>st</sup>, 2008

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 law enforcement facilities and equipment, required to accommodate new development projects, subject to compliance with the provisions of the Local Powers Act; and

WHEREAS Jefferson County, West Virginia (the ACounty@), 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 Sheriff of Jefferson County is the chief law enforcement officer of the County and provides law enforcement services primarily to the residents and businesses of the County, and

WHEREAS the municipalities of Bolivar, Charles Town, Harpers Ferry, Ranson, and Shepherdstown each maintain police departments which are funded and staffed by their respective municipalities and not by Jefferson County nor by the Sheriff of Jefferson County, and

WHEREAS the Jefferson County Commission (the ACounty Commission@) retained Tischler & Associates, Inc. (the AConsultants@) to analyze and assess growth and development projections for the County to determine the additional demand anticipated to be placed on the County for law enforcement support buildings, vehicles and equipment; and

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WHEREAS the Consultants additionally reviewed the existing demand for law enforcement facilities, vehicles, and equipment; the existing law enforcement facilities, vehicles, and equipment available to meet that demand; and the method of financing the existing law enforcement component of the Sheriff's Department; and

WHEREAS the County has adopted the methodology used by the consultant for the purpose of conducting updates to the law enforcement impact fee, and [amended by the County Commission, March 13, 2008]

WHEREAS the County has reviewed the existing level of service standards; and [Amended by the County Commission, March 13, 2008]

WHEREAS the County has relied upon the actual costs of recent law enforcement facilities, vehicle acquisition, and equipment for a determination of the costs of law enforcement facilities, vehicles, and equipment; and [Amended by the County Commission, March 13, 2008]

WHEREAS the law enforcement impact fee will be imposed only on new residential and non-residential development in the unincorporated portions of the County; and

WHEREAS the County has reviewed and relied upon the County Comprehensive Plan, and the County's six-year Capital Improvements Program; and [Amended by the County Commission, March 13, 2008]

WHEREAS the population and new residential development projections for the County indicate: (1) that the population of the County will increase from approximately 46,184 persons in the year 2004 to approximately 71,820 persons in the year 2022; and (2) that housing units will increase from approximately 19,486 in the year 2004 to approximately 27,837 in the year 2022; and (3) that non-residential vehicle trips will increase from approximately 73,416 per day in 2004 to approximately 126,206 in the year 2022, and

WHEREAS the types of facilities and associated costs that are included in this impact fee cover land acquisition and construction for law enforcement facilities; and the acquisition of law enforcement vehicles and related support equipment; and

WHEREAS the law enforcement 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, updated by Tischler & Associates, Inc on December 8<sup>th</sup>, 2004) and updated again by the County in December of 2007 with costs fairly and rationally distributed between residential and non-residential development; and [Amended by the County Commission, March 13, 2008]

WHEREAS, in calculating the appropriate impact fee to be imposed on new residential and non-residential development, the Consultants (and subsequently 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 law enforcement facilities and the acquisition of new law enforcement vehicles and support equipment would be paid for entirely by the law enforcement impact fees (in other words that new growth will pay to maintain the existing level of service standard); and [Amended by the County Commission, March 13, 2008]

WHEREAS the County has prepared an Impact Fees Report (updated in December of 2007) including the law enforcement impact fee assumptions, population projections, residential development projections, non-residential vehicle trip projections, non-residential development projections, capital improvements and impact fee calculations, which Report has been submitted to and reviewed by County staff and officials; and [Amended by the County Commission, March 13, 2008]

WHEREAS the Impact Fees Report has been presented to and reviewed by the County Commission, which has determined: (1) that the law enforcement impact fee is necessary to offset the costs associated with meeting the demand of law enforcement, pursuant to the development projections; (2) that the law enforcement impact fee bears a reasonable relationship to the burden imposed upon the County to provide law enforcement services to new residents and to new businesses, and provides a benefit to such new residents and new businesses reasonably related to the law enforcement impact fee, per dwelling unit, by type for residential development and per commercial use and usable gross floor area for non-residential development; (3) that an Aessential nexus@ exists between the projected new residential and non-residential development and the need for additional law enforcement facilities, vehicles, and support equipment to be funded via the law enforcement impact fee; and (4) that the amount of law enforcement impact fee is Aproportional@ to the pro rata share of the additional law enforcement facilities, vehicles, and support equipment needed to provide adequate law enforcement services to new residential and non-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 law enforcement impact fee; and

WHEREAS the law enforcement impact fee adopted pursuant to this Ordinance shall be effective

on January 20, 2005 with amendments to take effect on April 1<sup>st</sup>, 2008. [Amended by the County Commission, March 13, 2008]

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the County Commission of Jefferson County, West Virginia, that: **SECTION 1. RULES OF CONSTRUCTION**

(1) Unless otherwise defined within this ordinance, the words used have the meanings given to them in the Impact Fee Procedures Ordinance for Jefferson County. **SECTION 2. ADOPTION OF LAW**

**ENFORCEMENT IMPACT FEE.**

(1) The applicable development/service area (the AService Area@) for imposition of a Law Enforcement Impact Fee is the entire County, exempting all incorporated Municipalities which maintain separate and independent law enforcement services. *Provided* that each municipality continue to maintain and provide its citizens with a law enforcement service and that in the event a municipality within Jefferson County should abandon its law enforcement service and request that Jefferson County provide law enforcement service for that municipality then Jefferson County may act to impose this ordinance within the municipality's boundaries.

(2) All new residential dwelling units and all new commercial development, including increases in existing commercial floor area and/or changes in commercial use within the Service Area shall be subject to the payment of a Law Enforcement 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:

**Residential Development**

Single Family

Town home/Duplex

Multi-family

**Impact Fee per Dwelling Unit**

\$262

\$200

\$197

**Non Residential Development**

Commercial/Shopping Center 25,000 SF or less

Commercial/Shopping Center 25,001 – 50,000 SF

Commercial/Shopping Center 50,001 – 100,000 SF

Commercial/Shopping Center 100,001 – 200,000 SF

Commercial/Shopping Center over 200,000 SF

Office/Institutional 10,000 SF or less

Office/Institutional 10,001 – 25,000 SF

Office/Institutional 25,001 – 50,000 SF

Office/Institutional 50,001 – 100,000 SF

Office/Institutional over 100,000 SF

Business Park

Light Industrial

Warehousing

Manufacturing

**Impact Fee per 1,000 square feet gross usable floor area**

\$126

\$117

\$101

\$87

\$75

\$58

\$47

\$40

\$34

\$29

\$33

\$18

\$13

\$10

[Amended by the County Commission, March 13, 2008]

(3) On April 1, 2005, and on April 1<sup>st</sup> of each year thereafter in which the Law Enforcement Impact Fee is in effect, the amount of the development impact fee, per dwelling unit or per 1,000 square feet gross usable non-residential floor area, shall be adjusted pursuant to the Annual Review process as set forth in Section 6 of the Impact Fee Procedures Ordinance.

(4) The County Commission may elect to retain the existing Law Enforcement Impact Fee or waive the adjustment for any given fiscal year, or years.

**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 January 20, 2005; however, no Law Enforcement Impact Fee shall be collected by the County until the sixty-first (61<sup>st</sup>) 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

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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 20<sup>th</sup> of January, 2005 and amended on March 13, 2008.

**JEFFERSON COUNTY COMMISSION ATTEST:**

By:  
President