

ORDINANCE NO. 2005-3

**AN ORDINANCE PROVIDING FOR THE IMPOSITION OF A FIRE AND
EMERGENCY MEDICAL SERVICES (EMS) IMPACT FEE ON ALL
NEW RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT; AND
PROVIDING FOR AN EFFECTIVE DATE OF May 12th, 2005**

AMENDED March 13, 2008 with an Effective Date of April 1st, 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 fire and emergency medical services (EMS) 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 "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 Volunteer fire Companies of Jefferson County and the Ambulance Authority of Jefferson County provide essential emergency services to all residents and businesses of the County, and

WHEREAS fire-fighting service and ambulance service are defined by §7-20-3(b) as a County Service, and

WHEREAS the municipalities of Bolivar, Charles Town, Harpers Ferry, Ranson, and Shepherdstown each lack specific municipal fire and emergency medical services and rely upon the services of the volunteer fire companies of Jefferson County and of the Ambulance Authority of Jefferson County, 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 fire and EMS support buildings, vehicles and equipment; and

WHEREAS the Consultants additionally reviewed the existing demand for fire and EMS facilities, vehicles, and equipment; the existing fire and EMS facilities, vehicles, and equipment available to meet that demand; and the method of financing the existing fire and EMS services; and

WHEREAS the County has adopted the methodology used by the consultant for the purpose of conducting updates to the parks and recreation 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 fire and EMS facilities, vehicle acquisition, and equipment for a determination of the costs of fire and EMS facilities, vehicles, and equipment; and [amended by the County Commission, March 13, 2008]

WHEREAS the fire and EMS impact fee will be imposed only on new residential and non-residential development in the County; and

WHEREAS the County has reviewed and relied upon the County Comprehensive Plan which is currently being revised, 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 44,184 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 fire and EMS facilities; and the acquisition of fire and EMS vehicles and related support equipment; and

WHEREAS the fire and EMS impact fee calculation methodology is an incremental expansion methodology, as described in the Impact Fees Report for Jefferson County, West Virginia (prepared by TischlerBise, formerly Tischler & Associates, Inc., June 11, 2003, updated on April 8th, 2005, and updated by the County in December 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 County assumed that the existing level of service standards would be maintained in the future and that the cost of the construction of fire and EMS facilities and the acquisition of new fire and EMS vehicles and support equipment would be paid for entirely by the fire and EMS impact fees; and [amended by the County Commission, March 13, 2008]

WHEREAS the County has prepared an Impact Fees Report (December 2007) including the fire and EMS 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 fire and EMS impact fee is necessary to offset the costs associated with meeting the demand of fire and EMS emergency services , pursuant to the development projections; (2) that the fire and EMS impact fee bears a reasonable relationship to the burden imposed upon the County to provide fire and EMS emergency services to new residents and to new businesses, and provides a benefit to such new residents and new businesses reasonably related to the fire and EMS 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 “essential nexus” exists between the projected new residential and non-residential development and the need for additional fire and EMS facilities, vehicles, and support equipment to be funded via the fire and EMS impact fee; and (4) that the amount of the fire and EMS impact fee is “roughly proportional” to the pro rata share of the additional fire and EMS facilities, vehicles, and support equipment needed to provide adequate fire and EMS emergency 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 fire and EMS impact fee; and

WHEREAS the fire and EMS impact fee adopted pursuant to this Ordinance shall be effective on May 12th, 2005 with amendments to take effect on April 1st, 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 FIRE & EMS IMPACT FEE.

(1) The applicable development/service area (the “Service Area”) for imposition of a Fire and EMS Impact Fee is the entire County, including all incorporated Municipalities.

(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 Fire and EMS 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	Impact Fee per Dwelling Unit
Single Family	\$ 698
Town home/Duplex	\$ 533
Multi-family	\$ 525

Non Residential Development	Impact Fee per 1,000 square feet gross usable floor area
Commercial/Shopping Center 25,000 SF or less	\$ 2,353
Commercial/Shopping Center 25,001 – 50,000 SF	\$ 2,182
Commercial/Shopping Center 50,001 – 100,000 SF	\$ 1,909
Commercial/Shopping Center 100,001 – 200,000 SF	\$ 1,653
Commercial/Shopping Center over 200,000 SF	\$ 1,418
Office/Institutional 10,000 SF or less	\$1,098
Office/Institutional 10,001 – 25,000 SF	\$889
Office/Institutional 25,001 – 50,000 SF	\$758
Office/Institutional 50,001 – 100,000 SF	\$551
Office/Institutional over 100,000 SF	\$548
Business Park	\$618
Light Industrial	\$ 338
Warehousing	\$ 240
Manufacturing	\$ 185

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

(3) On April 1, 2006, and on April 1st of each year thereafter in which the Fire and EMS 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) Nothing herein shall prevent the County Commission from electing to retain the existing Fire and EMS Impact Fee or from electing to waive the adjustment for any given fiscal year, or years.

SECTION 3. 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 4. 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 5. EFFECTIVE DATE; ELECTION.

(1) This Ordinance shall be effective on May 12th, 2005; however, no Fire and EMS 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 12th day of May, 2005 and amended on March 13, 2008.

JEFFERSON COUNTY COMMISSION

ATTEST:

By: _____

President