

ORDINANCE NO. 22-03 B

**AN ORDINANCE TO AMEND TITLE 5, CHAPTER 6, SECTION 5-607
TAX LEVY, SPRING HILL CODE OF ORDINANCES**

WHEREAS, the Tennessee General Assembly and Governor in April 1988 enacted HB 2436 and SB 2468, a Private Act, to authorize the Town of Spring Hill to levy and collect a privilege tax on new development within its city limits in order to provide that new development contribute its fair share of the cost of providing public facilities and services made necessary by such new development; and

WHEREAS, the Board of Mayor and Alderman adopted Ordinance 94-02 in 1994 to create a Chapter in the Municipal Code titled “Spring Hill Adequate Facilities Tax” intended to assure the provision of adequate park, road, police, fire, safety, sanitation, sewer and water facilities to serve new development in the city by requiring each new development to pay a tax proportionate to the need for new facilities created by such development, the proceeds of which shall be exclusively to fund capital improvements made necessary by new growth; and

WHEREAS, the Board of Mayor and Alderman approved Ordinance 06-35 in 2006 to amend the tax levy amount from \$0.25 per square foot for new residential and non-residential buildings to \$0.50 per square foot for new residential and non-residential buildings; and

WHEREAS, Title 5, Chapter 6, Section 5-611 (A) provides “the Board may, from time to time, amend the tax herein imposed on new development, based upon adoption of a revised capital improvement plan, which identifies new capital improvements costs reasonably attributable to the new development; and

WHEREAS, with the adoption of the City’s Capital Improvement Plan that includes parks, police, fire, and utility and road infrastructure projects, the Board of Mayor and Aldermen has determined it necessary to amend Title 5, Chapter 6, Section 5-607 (A) Tax Levy to increase the fee as provided in the Private Act enacted by the General Assembly in 1988; and

BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE, that the following is hereby adopted.

1. Amend Title 5, Chapter 6, Section 5-607 (A) (1) and (2) and (B) as follows:
Delete in its entirety Title 5, Chapter 6, Section 5-607 (A) (1) and (2) and (B) and replace same with the following in its entirety:

(A) There is hereby levied a tax on each person engaged in the business of development in the city, which tax is to be paid at the time the building permit is issued as provided in Section 5-609 of this chapter, as follows:

- (1) One dollar (\$1.00) per gross square foot of new residential development; and
- (2) Two dollars (\$2.00) per gross square foot of new non-residential development

(B) The tax shown in subsection (A) above shall be increased by 2.5% annually to account for inflation on January 1.

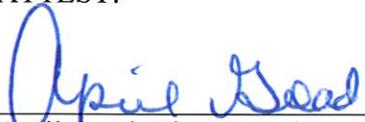
(C) Provided, however, that, the total tax herein imposed shall in no event exceed One dollar (\$1.00) per gross square foot for new residential development and Two dollars (\$2.00) per gross square foot of new non-residential development.

2. The Ordinance shall be effective beginning July 1, 2022.
3. Any Ordinance or Resolution in conflict with Title 5, Chapter 6, Section 5-607 are hereby repealed in their entirety.
4. Phases or Sections of Subdivisions or Planned Unit Developments that received preliminary plat and construction plan approval from the City and are under construction prior to the effective date of the effective date of this Ordinance (July 1, 2022) shall pay the Adequate Facility Tax in effect at the time construction plan approval was granted by the City of Spring Hill.

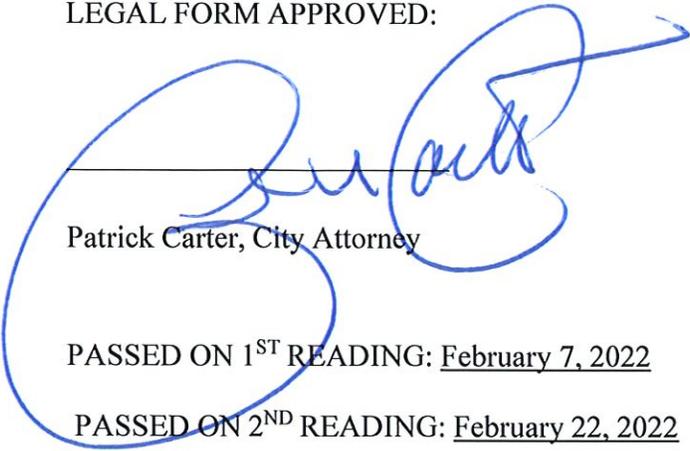
Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 22nd day of February, 2022.


Jim Hagaman, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

PASSED ON 1ST READING: February 7, 2022

PASSED ON 2ND READING: February 22, 2022



REQUEST: Approval of Ordinance 22-03(a)
SUBMITTED BY: Dan Allen, Assistant City Administrator
DATE: January 6, 2022
RE: Ordinance 22-03 Amend Title 5, Chapter 6, Section 5-607 Tax Levy – Adequate Facilities Tax
ATTACHMENTS: Ordinance 22-03 and supporting documentation

PURPOSE:

To approve Ordinance 22-03(a) to amend Title 5, Chapter 6, Section 5-607 Tax Levy (Adequate Facilities Tax).

BACKGROUND:

The City of Spring Hill continues to experience rapid growth and development, as demonstrated with the issuance of an annual average of 893 residential building permits from 2017 to 2021. The corresponding population growth residing in new residences throughout the community is placing significant new demand upon municipal facilities and services. New development creates the need for expanded municipal facilities including police, fire, library, municipal services, public works and parks and recreation.

Adequate Facilities Tax

The City levies an adequate facilities tax on new development. This tax has been in place since adoption of Ordinance 94-02 (attached) based upon authority contained in a Private Act of the Tennessee General Assembly in 1988 (attached). The Adequate Facilities Tax was initially levied at a rate of \$0.25 per square foot for new residential and non-residential buildings along with \$500 for a new residential or non-residential building. The Adequate Facilities Tax was later amended by Ordinance 06-35 to increase the tax levy from \$0.25 per square foot to \$0.50 per square foot for new residential or nonresidential buildings while maintaining the \$500 per new residential or non-residential building.

The adequate facilities tax revenues can be used for capital improvements needed to accommodate growth, including but not limited to municipal buildings, parks, libraries, fire and police facilities. The tax levy is limited by the enabling legislation contained in the Private Act adopted in 1988 to not exceed \$1.00 per square foot for residential and \$2.00 per square foot for nonresidential. The City's Municipal Code (attached) provides for the levying of a tax in the

amount of \$0.50 per square foot of building floor area, plus \$500 per dwelling unit or per nonresidential building. The current Municipal Code further provides that the tax levy not exceed \$1.00 per square foot for residential and nonresidential construction despite the enabling legislation contained in the adopted Private Act that allows the City to assess a tax levy up to \$1.00 per square foot for residential and \$2.00 per square foot for nonresidential.

In the past, the City required developers and builders to pay a traffic impact fee and an adequate facilities tax. According to the enabling legislation and provisions in the City's Municipal Code, the traffic impact fee could only be spent on capacity-expanding arterial street improvements, while the adequate facilities tax could be spent on a wide variety of capital improvements, including the same types of improvements addressed by the traffic impact fees. To remove the possibility of a double-payment issue being raised, the Board of Mayor and Aldermen adopted Ordinance 19-11A to amend Title 5 Chapter 5 Adequate Facilities Tax to restrict adequate facilities tax revenues from being spent on capacity-expanding arterial street construction costs.

FINANCIAL IMPACT:

The recommended adjustment from \$0.50 per square foot for new residential and non-residential buildings and a \$500 base fee for a new residential or non-residential building to a flat rate of \$1.00 per square foot for new residential buildings and \$1.00 per square foot for new non-residential buildings would generate approximately \$2,500,000 for new residential and \$275,000 for new non-residential. This revenue forecast is based on 1,000 new residential units per year and 275,000 square feet of new non-residential per year.

The proposed amendment would also repeal the additional \$500 levy currently in place for residential and non-residential buildings so as to avoid exceeding the maximum tax levy as provided in the Private Act.

RECOMMENDATION:

Approval of Ordinance 22-03(a) to amend Title 5, Chapter 6, Section 5-607 to increase the tax levy to \$1.00 per square foot for new residential buildings and \$1.00 per square foot for new non-residential buildings effective July 1, 2022, as provided in the Private Act and subsequent enabling legislation adopted by the Tennessee General Assembly in 1988.

As requested by BOMA, an additional option has been provided as Ordinance 22-03(b). The only difference is that the new non-residential rate is increased to \$2.00 per square foot, which is the maximum allowable amount permitted under enabling legislation from the Private Act as previously referenced.

Adequate Facilities Tax Comparison

LOCATION	ADEQUATE FACILITIES TAX	PROPOSED ADEQUATE FACILITIES TAX (4)	CURRENT		PROPOSED ORDINANCE 22-XX(a) (4)		PROPOSED ORDINANCE 22-XX(b) (4)	
			EXAMPLE #1 - RESIDENTIAL (2,500 SF)	EXAMPLE #2 - NON-RESIDENTIAL (10,000 SF)	EXAMPLE #1 - RESIDENTIAL (2,500 SF)	EXAMPLE #2 - NON-RESIDENTIAL (10,000 SF)	EXAMPLE #1 - RESIDENTIAL (2,500 SF)	EXAMPLE #2 - NON-RESIDENTIAL (10,000 SF)
Franklin								
Residential (SF Detached only)	\$0.89/SF		2,500 x \$0.89/SF = \$2,225					
Other Residential	\$0.71/SF		2,500 x \$0.71/SF = \$1,775					
Non-Residential	\$1.18/SF			10,000 x \$1.18/SF = \$11,800				
Spring Hill (1, 2)								
Residential	\$500.00 + \$0.50/SF Heated	\$1.00/SF Heated (4)	\$500 + (2,500 x \$0.5/SF) = \$1,750		\$1.00/SF x 2,500 SF = \$2,500		\$1.00/SF x 2,500 SF = \$2,500	
Non-Residential	\$500.00 + \$0.50/SF Heated	\$1.00/SF Heated (4)		\$500 + (10,000 x \$0.5/SF) = \$5,500	\$1.00/SF x 10,000 SF = \$10,000		\$2.00/SF x 10,000 SF = \$20,000	
Williamson County (3)								
Residential	\$2.00/SF		2,500 x \$2.00/SF = \$5,000					
Non-Residential	\$0.34/SF			10,000 x \$0.34/SF = \$3,400				
Maury County								
Residential	\$0.50/SF		2,500 x \$0.50/SF = \$1,250					
Non-Residential	\$0.30/SF			10,000 x \$0.30/SF = \$3,000				
Mt. Juliet								
Residential	\$3,000		\$3,000					
Non-Residential	Equal to Building Permit			Equal to Building Permit				
Fairview								
Residential	\$500.00 + \$0.25/SF Heated		\$500 + (2,500 x \$0.25/SF) = \$1,125					
Non-Residential	\$500.00 + \$0.50/SF Heated			\$500 + (10,000 x \$0.5/SF) = \$5,500				
Nolensville								
Residential	\$1.00/SF		2,500 x \$1.00/SF = \$2,500					
Non-Residential	\$2.00/SF			10,000 x \$2.00/SF = \$20,000				

Notes:

(1) HB2436 and SB2468 (March 1988) - According to the approved Private Act, for the exercise of the privilege (Adequate Facilities Tax) Spring Hill may impose a tax on new development not to exceed: a) one dollar (\$1.00) per gross square foot of new residential; and b) two dollars (\$2.00) per gross square foot for new non-residential development.

(2) Based upon current building permit trends, the Adequate Facilities Tax in Spring Hill presently generates a budgeted amount of approximately \$2M annually in revenues for capital projects. The proposed increase in Adequate Facilities Tax upon full implementation could generate an additional 40% +/- in AFT revenues for capital improvement projects.

(3) The Adequate Facilities Tax in Williamson County requires payment of \$1.00 per square foot for finished living space (and potential finished space) in new residential dwelling units permitted in the County after July 1, 2007. Under this private act, 30% of the total collections must be distributed back to cities with a capital improvement program divided on a per capita basis under the latest census counts. The act requires that the funds received by the City be used for capital improvements related to growth.

(4) Ordinance 22-XX(a) proposes a single-step adjustment from the current tax levy of \$500 base plus \$0.50 per gross square foot for new residential or non-residential buildings to \$1.00 per gross square foot for new residential building and \$1.00 per gross square foot for new non-residential buildings effective July 1, 2022. Ordinance 22-XX(b) proposes a single-step adjustment from the current tax levy of \$500 base plus \$0.50 per gross square foot for new residential or non-residential buildings to \$2.00 per gross square foot for new residential building and \$1.00 per gross square foot for new non-residential buildings effective July 1, 2022.

ORDINANCE 06-35

**AN ORDINANCE TO AMEND CHAPTER 6, SECTION 5-607, TAX
LEVY, SUBSECTION 1, , OF THE MUNICIPAL CODE OF THE
CITY OF SPRING HILL, TENNESSEE**

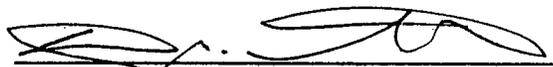
WHEREAS, the Board of Mayor and Aldermen of the City of Spring Hill may, pursuant to its charter and general laws of the State of Tennessee, enact regulatory ordinances protecting and promoting the general welfare, health, and safety of its citizens.

**BE IT THEREFORE ORDAINED BY THE BOARD OF
MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL,
TENNESSEE:**

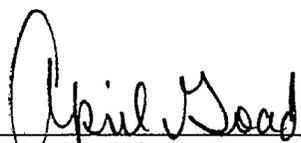
That Chapter 6, Section 5-607, Subsection 1, is amended to read as follows; "\$.50 per gross square foot of new residential or each non-residential development; and"

BE IT FURTHER ENACTED, that this ordinance shall take effect from and after its adoption, the public welfare requiring it.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 15th day of May, 2006.



Danny M. Leverette, Mayor

ATTEST: 

April Goad, City Recorder

Legal form approved:


Tim Underwood, City Attorney

Passed on 1st reading 4-17-06

Passed on 2nd reading 5-15-06

**AN ORDINANCE TO ADOPT A CAPITAL IMPROVEMENTS PLAN
FOR THE TOWN OF SPRING HILL AND TO
ESTABLISH IMPACT FEES AS A TAX ON THE PRIVILEGE
OF ENGAGING IN THE BUSINESS OF DEVELOPMENT
TO PROVIDE REVENUE FOR ADEQUATE
PUBLIC FACILITIES AND SERVICES
TO SUPPORT SUCH NEW DEVELOPMENTS**

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE
TOWN OF SPRING HILL:

WHEREAS, the construction of new residential and non-residential structures and buildings within the Town of Spring Hill creates demands for additional park, road, police, fire, safety, sanitation, sewer and water facilities to serve such new development as is set forth in Resolution No. 94-1 and Exhibit A to this Ordinance, both of which are hereby adopted and made a part of this Ordinance as if fully copied verbatim herein; and

WHEREAS, the Board of Mayor and Aldermen of the Town of Spring Hill, Tennessee, has by Resolution No. 94-1 adopted a capital improvements program identifying such additional capital facilities and their estimated costs all of which are attributable to new developments; and

WHEREAS, the Board and Mayor and Aldermen of the Town of Spring Hill, Tennessee, has determined that a tax on the privilege of development is necessary in order to finance, in whole or in part, the capital improvements required to serve new development; and

WHEREAS, the levy of a tax on the privilege of development for the purpose of providing revenues for adequate

public facilities and services attributable to new growth is authorized under the terms of Section 6-2-201 (14) and (15) of Spring Hill's statutory charter and Chapter 173 Private Acts of The Tennessee General Assembly of 1988 (HB 2436) and the general laws of the State of Tennessee; therefore

SECTION 1: BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Spring Hill:

A. Short Title

This Ordinance shall be known and cited as the Spring Hill Development Public Facilities Privilege Tax and Impact Fee Ordinance.

B. 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 Ordinance as hereinafter set forth.

C. Intent

This Ordinance 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.

D. Authority

This ordinance is passed pursuant to the general laws of the State of Tennessee, the charter of the Town of Spring Hill, including Section 6-2-201(14) and (15) of Tennessee Code Annotated, and Chapter 173 of the Private Acts of the Tennessee General Assembly of 1988 (HB 2436). The provisions of this ordinance shall not be construed to limit the power of the City to adopt such ordinance 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 ordinance.

Definitions

As used in this ordinance, 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 Standard 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 program means the official adopted schedule of capital improvements to be undertaken.
6. City means the Town of Spring Hill, a duly constituted political subdivision of the State of Tennessee.

7. Council/Board means the duly constituted governing body of the Town 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 areas annexed to the Town of Spring Hill since July of 1982 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 Town 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. 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
- (i) The improvements set forth in Resolution No. 94-1.

15. Residential development means any development approved by the local government for residential use.

16. Site means the land on which development takes place.

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.

F. Applicability of Impact Fee

This ordinance shall be uniformly applicable to development that occurs within a designated development subarea.

G. Imposition of Impact Fee

1. No building permit shall be issued for a development in a designated development subarea as herein defined unless the impact fee is imposed and calculated pursuant to this ordinance.

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.

H. Capital Improvements Program

To service the projected development, capital improvements as shown in Resolution No. 94-1, attached hereto and incorporated herein by reference, will be required to be provided and financed via impact fees.

I. 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.

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. Annual review and modification: The City shall annually, in conjunction with the annual capital budget and capital improvements plan adoption processes, review the development potential of the subarea and the capital

improvements plan and make such modifications as are deemed necessary as a result of (a) development occurring in the prior year; (b) capital development potential of the subarea 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.

J. 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 ordinance, 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.

K. 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 serving such property within six (6) years of the date of payment of the impact fee, or
 - (b) the building permit for which the impact fee has been paid has lapsed for noncommencement of construction, or
 - (c) 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 year of the event giving rise to the right to claim a refund.
3. The petition for refund must be submitted to the Recorder or his or her duly designated agent on a form provided by the City for such purpose.
4. Within one month of the date of receipt of a petition for refund, the Mayor 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 Mayor or his or her duly designated agent shall notify the city treasurer and request that a refund payment be made to petitioner.

5. Petitioner may appeal the determination of the Mayor to the city council.

L. 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 chief building official, 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.

M. Effect of Impact Fee on Zoning and Subdivision Regulations

This ordinance 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.

N. 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.

O. Variances and Exceptions

Petitions for variances and exceptions to the application of this ordinance shall be made to the Mayor in accordance with procedures to be established by resolution of the city council.

P. Credits

1. A property owner may elect, with written permission of the council, to construct a 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. The City must reasonably provide for credits for other past and future monetary and nonmonetary contributions by the developer to the construction of the same public facility, as follows:

(a) Present value of amounts contributed within the past years for any land dedications, physical improvements, financial contributions, or property taxes;

(b) Present land dedications and physical improvements;

(c) Future land dedications and physical improvements.

3. No credits shall be given for the construction of local on-site facilities required by zoning, subdivision, or other city regulations.

SECTION 2: BE IT FURTHER ORDAINED that Title 6 of the Spring Hill Municipal Code shall be, and is hereby, amended so as to add the foregoing as a new Chapter 5, and to add a new Chapter 6 which shall read in its entirety as follows:

TITLE 6
FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. IMPACT FEE - PURPOSES AND ADMINISTRATION.
6. ADEQUATE FACILITIES TAX.

* * *

CHAPTER 6

ADEQUATE FACILITIES TAX

SECTION

- 6-601. SHORT TITLE.
- 6-602. PURPOSE.
- 6-603. FINDINGS.
- 6-604. AUTHORITY.
- 6-605. DEFINITIONS.
- 6-606. CAPITAL IMPROVEMENTS.
- 6-607. TAX LEVY.
- 6-608. PROBATION OF ISSUANCE OF BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY.
- 6-609. COLLECTION OF TAX.
- 6-610. USE AND SEGREGATION OF TAX FUNDS.
- 6-611. NEW TAX LEVY.
- 6-612. EXEMPTIONS FROM TAX.
- 6-613. PROTEST OF TAX.
- 6-614. ADDITIONAL AUTHORITY.
- 6-615. NON-REPEALER.
- 6-616. SEVERABILITY.

6-601. Short Title. This Chapter shall be known and cited as the Spring Hill Adequate Facilities Tax.

6-602. Purpose. This ordinance is intended to assure the provision of adequate park, road, police, fire, safety, sanitation, sewer and water facilities to serve new development in the Town by requiring each new development to pay a tax

proportionate to the need for new facilities created by such development, the proceeds of which shall be used exclusively to fund capital improvements made necessary by new growth.

6-603. Findings. The Board of Mayor and Aldermen (hereinafter "Board:") hereby finds and declares that:

(a) Spring Hill is experiencing rapid population and employment growth, as a result of the location of the General Motors Corporation's Saturn Plant.

(b) The Town of Spring Hill will experience an increase of 600 or more residential dwelling units by the year 1999.

(c) The anticipated population growth in Spring Hill creates the demand for additional road, park, police, fire, safety, sanitation and water facilities.

(d) The Town of Spring Hill insofar as its revenues allow is committed to the provision of such public facilities and services at levels of service necessary to support anticipated residential growth.

(e) The Town has prepared a 10-year capital improvements plan which, to the extent possible, identifies such facilities and services levels and designates the sources of funding the same.

(f) The estimated capital improvements costs of these facilities to serve new growth for the next 10 years will be approximately ten million dollars.

(g) The Town's capital improvements plan apportions the costs of providing additional public facilities and services among existing and future users of such facilities in proportion to the demands for these facilities generated by such users, the Board realizing that the Town's facilities before Saturn were adequate for its population at that time and its pre-Saturn rate of growth for the next 20 years.

(h) The demand for additional public facilities to serve new growth in Spring Hill is generated by residential development and, to some extent, by non-residential development, such as the Ryder Transportation facilities, and anticipated future non-residential development; taking into consideration factors such as usage of public facilities by employees residing outside of the Town and demand for specialized services necessitated by non-residential development. The ratio of the impact on public facilities and services attributable to new residential development and new non-residential development as to the pre-Saturn demands of the Town of Spring Hill is approximately 100:1.

(i) The Legislature of the State of Tennessee has authorized the Town of Spring Hill to impose an adequate facilities tax on the privilege of engaging in the business of development.

(j) The tax herein imposed is within the statutory limits established by the Legislature and is otherwise reasonable and equitable.

6-604. Authority. This Ordinance is imposed under the charter powers of the Town of Spring Hill, Tennessee, and under the authority conferred on the Town to levy an adequate facilities tax on the privilege of engaging in development by Tennessee Private Acts of 1988, Chapter 173 (HB 2436).

6-605. Definitions. As used in this Ordinance, unless a different meaning appears from the context:

(a) "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.

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

(c) "Capital improvement" means a park or recreational facility; police facility; fire or safety facility; or water facility, with a life expectancy of three or more years, owned and operated by or on behalf of the Town.

(d) "Capital improvements costs" means the cost of land acquisition, planning, design or construction for a capital improvement.

(e) "Capital improvements plan" means the proposed schedule of future capital improvements, listed in order of construction priority over a 5-year period, the associated capital improvements costs and the anticipated funding sources for each project together with the list of projected long-range capital improvements and capital improvements costs for the next 20 years.

(f) "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.

(g) "Town" means the Town of Spring Hill, Tennessee.

(h) "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 non-residential use.

(i) " 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.

(j) "Floor area" means the total of the gross horizontal area of all floors which will be heated or cooled, including such usable basements and cellars, below the

roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of a party wall separating such buildings 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 farm buildings and sheds and, in the case of non-residential 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.

(k) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this ordinance.

(l) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(m) "Place of worship" means that portion of a building owned by a religious institution which has tax-exempt status, which is used for worship services and related functions, but does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(n) "Public buildings" means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(o) "Residential" means the development of any property for a dwelling unit or units.

(p) "Structure" means anything which is constructed or erected, and the use of which requires more or less permanent location on ground or attachment to something having permanent location on ground, not, however, including wheels; an edifice of any kind; any production or piece of work, artificially

built up or composed of parts of and joined together in some definite manner.

6-606. Capital Improvements Plan. There is hereby adopted the Capital Improvements Plan for the Town for the years 1994-1999 set forth in Resolution No. 93-12 a copy of which is attached hereto as Exhibit B and incorporated by reference herein or as it may be amended by resolution or ordinance from time to time. The fact that the Capital Improvements Plan also identifies the capital costs of public facilities and services other than capital improvements as defined in this ordinance has no effect on the computation or assessment of taxes herein established.

6-607. Tax Levy. There is hereby levied a tax on each person engaging in the business of development in the Town, which tax is to be paid at the time the building permit is issued as provided in 6-609, as follows:

(a) \$.25 per gross square foot of new residential or non-residential development; and

(b) \$500.00 for each residential unit and each non-residential building; and

Provided, however, that the total fees herein imposed shall in no event exceed one dollar (\$1.00) per gross square feet of each such development.

6-608. Prohibition on Issuance of Building Permit or Certificate of Occupancy. No building permit nor certificate of occupancy for new development in the Town shall be issued unless and until the tax herein imposed has been paid in full by the person engaging in such new development, as provided in §6-609.

6-609. Collection of Tax.

(a) Each applicant for a building permit for new development shall state, on a form provided by the Town, the amount of gross square footage contained in the development for which the permit is sought.

(b) The Town Building Official shall calculate the tax due on the development and collect such tax in cash prior to acceptance of the application for the permit.

(c) In the event that a building permit is not required (or was issued prior to April 1, 1994) for the new development, the applicant for a certificate of occupancy shall state the amount of gross square footage contained in the development for which the certificate is sought, and the Town Building Official shall calculate the tax due on the development and collect such tax in cash prior to acceptance of the application for the certificate.

(d) In its sole discretion, the Town may permit a person engaging in the business of developments, upon application for a building permit for a development, to defer payment of the tax until the time for issuance of the certificate of occupancy for such development, provided that such person provides security for the full amount of the tax due in a form acceptable to the Town.

5-510. Use and Segregation of Tax Funds. All taxes on new development collected pursuant to this Ordinance shall be deposited in a separate account. Funds of the account shall be expended solely for those capital improvements identified in the Town's Capital Improvements Plan.

6-611. New Tax Levy. The Board may, from time to time, amend the tax herein imposed on new development, based upon adoption of a revised Capital Improvements Plan, which identifies new capital improvements costs reasonably attributable to the new development. Such tax shall be collected prospectively only.

6-612. Exemptions from Tax. No tax shall be assessed or collected for the development of:

- (a) public buildings; or
- (b) places of worship.

6-613. Protest of Tax. Any person aggrieved by the assessment of the tax herein authorized may protest such assessment in the manner provided by the laws of the State of Tennessee.

6-614. Additional Authority. The Spring Hill Adequate Facilities Tax on new development is in addition to all other authority the Town may exercise to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by private or public acts of the State of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

6-615. Non-repealer. The provisions of this Ordinance shall in no manner repeal, modify or interfere with the authority granted by any other public or private law applicable to the Town.

6-616. Severability. If any of the provisions of this Ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions, or applications of this Ordinance which can be given effect without the invalid provision or application, and to that end the provisions of this Ordinance are declared to be severable.

6-617. Effective Date. The taxes herein imposed shall be collected at the time the building permit is issued for permits issued on or after April 1, 1994.

SECTION 3: The provisions of this ordinance are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience, and it shall be liberally construed to effectively carry out its purposes.

SECTION 4: All ordinances, code sections, or parts thereof in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Passed and adopted by the Board of Mayor and Aldermen of the Town of Spring Hill on this the 21st day of February, 1994.



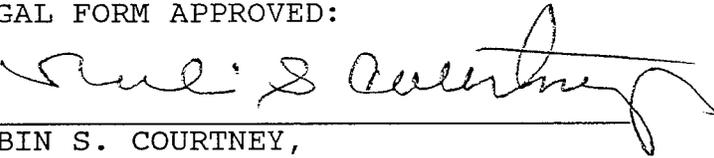
FREEMAN COWHERD, MAYOR

ATTEST:



JUNE QUIRK, RECORDER

LEGAL FORM APPROVED:



ROBIN S. COURTNEY,
TOWN ATTORNEY

Passed on 1st Reading: 1-24-94
Passed on 2nd Reading: 2-21-94



EXHIBIT A TO ORDINANCE NO. 94-2 OF
THE TOWN OF SPRING HILL

Prior to the July 1985 announcement by General Motors Corporation that it would locate its Saturn automobile manufacturing plant adjacent to the Town of Spring Hill, its public facilities were adequate to serve its then population as well as its projected growth for a period of at least 20 years as its population had remained at or near 1,000 inhabitants for many years. (1980 population 989, 1986 population 1,094).

Spring Hill had in the late 1970's and early 1980's made substantial investments in its infrastructure including the following capital improvements:

1. The construction and installation of its first sanitary sewer system and the construction of the sewage treatment plant north of the Kedron Road, several miles outside its then present city limits.
2. The expansion and improvement of its water system including the construction of the present tank located adjacent to the City Hall, the enlargement of the size of certain water mains and the installation of a pump to fill the reservoir.
3. The repaving of all streets damaged by the water and sewer line construction which included almost every street within the city limits with the exception of U.S. Highway 31.

It had also renegotiated its 1965 contract with the Columbia Board of Public Utilities which furnishes Spring Hill its entire water requirements by extending it for an additional 40 years from 1981.

The size of Spring Hill had remained more or less constant since its initial incorporation in about the year 1838 and its population had actually decreased since that date. Subsequent

to Saturn, Spring Hill (in most instances at the request of the property owners involved) undertook several major annexation programs as the result of which its pre-Saturn size of approximately 900 acres is now approximately 3,000 acres. Its 1990 population was 1,465, a 48% increase since the last U.S. Census of 1980.

The residential and some limited commercial and industrial developments and those proposed or foreseen within the annexed areas have created demands for additions and expansions to the public facilities and infrastructure of the Town of Spring Hill including, but not limited to an additional fire hall, additional water storage facilities, the improvement of certain roads, especially Buckner Road, Kedron Road, and Beechcroft Road, the acquisition of additional police cars and fire fighting equipment, fire hydrants and street lights in new subdivisions, and eventually the construction of its own facilities to acquire a public water supply for Spring Hill, either from underground sources or Duck River, and the construction and operation of a water treatment plant as well as the water lines required to connect the eventual source of water to the treatment plant.

Before the Saturn announcement in 1985, the police force of the Town of Spring Hill consisted of a full-time Town Marshall and one part-time policeman which were served by one police car. Since Saturn the police force has increased to eight (8) including a Chief, Assistant Chief, Captain, and five (5) Patrolmen, all full-time. The city now often maintains five (5) police cars. The

only other employees pre-Saturn of the Town of Spring Hill were a part-time Recorder, an employee who operated the sewage treatment plant and another employee who supervised the public water system. The Recorder operated in a small room adjacent to the old fire hall on McLemore Avenue. Since Saturn the Spring Hill work force, besides the police, includes, in addition to the full-time Recorder, two full-time clerical employees at City Hall, a building inspector, three (3) maintenance employees, a salaried Fire Chief, a sewage treatment plant supervisor and his assistant, a total of eighteen (18). The position of City Judge has also been created and filled.

A new City Hall costing in excess of \$1,000,000 has been erected and it is necessary that it be maintained. A new fire hall has been constructed on Beechcroft Road which was financed by a loan from the Farmers Home Administration.

The following is a list of the proposed capital improvements along with their estimated costs required to serve the new developments almost all of which have developed or will develop in areas annexed to the corporate limits of the Town of Spring Hill since July of 1985:

PROPOSED IMPROVEMENTS AND ESTIMATED COSTS

1994-1999

1. STREET IMPROVEMENTS, OUTSIDE PRE-1985 CITY LIMITS

a. Kedron Road Improvement	\$ 500,000
b. Buckner Road Improvement	100,000
c. Buckner Lane Improvement	50,000
d. Moore Lane Improvement	200,000
e. Depot Street Improvement	<u>100,000</u>
	\$ 950,000

2. NEW WATER STORAGE FACILITIES	
a. Williamson County Tank	\$ 200,000
b. Kedron Road Tank	<u>200,000</u>
	\$ 400,000
3. NEW FIRE HALL	\$ 100,000
4. NEW FIRE EQUIPMENT (pumper, tanker truck, rescue equipment vehicle, extraction equipment, gear for additional firemen, etc.)	\$ 375,000
5. ADDITIONAL POLICE CARS	\$ 50,000
6. ADDITIONAL PUBLIC WORKS EQUIPMENT	\$ 130,000
7. WATER SUPPLY AND TREATMENT PLANT	\$2,000,000
8. UPGRADING SANITARY SEWER SYSTEM	<u>\$ 200,000</u>
TOTAL ESTIMATED COSTS	\$4,205,000

As stated in the introductory paragraphs, prior to July 1985, the public facilities of Spring Hill were adequate for its purposes for the next 20 years. All of the foregoing facilities, constructed and proposed, and the additional personnel are required because of developments since the Saturn announcement almost all of which are in areas annexed to Spring Hill since that time. It is anticipated that the costs of the proposed facilities will be paid at least in part by the privilege tax on new construction to be imposed by an ordinance and any other impact fees that may be imposed. In order to construct some of the improvements it is anticipated that funds may be borrowed on the full faith and credit of the Town of Spring Hill and that the taxes herein levied and any

impact fees imposed will be used as partial repayment of such indebtednesses. A portion of these costs will, of necessity, be born by the inhabitants of the Town of Spring Hill located within its old corporate limits who will be required to help defray the cost of the facilities which would not have been required except for the new developments most of which are outside the old corporate limits. Where the revenue realized from the privilege taxes to be imposed and any other impact fees that might be imposed are inadequate to meet the payments on any future indebtednesses, the deficiency will be paid by the general revenues of the Town of Spring Hill.

The proposed improvements will be undertaken as the revenues of Spring Hill allow. The initial priority of the projects is in the order set forth above. The Board of Mayor and Aldermen may, at any time, by appropriate motion or resolution change the priority of the projected capital improvements.



**A RESOLUTION ADOPTING A CAPITAL IMPROVEMENT PROGRAM
FOR THE TOWN OF SPRING HILL**

Whereas, the Board of Mayor and Aldermen recognizes that new development within the city limits of the Town of Spring Hill will require considerable capital improvements to serve such new developments including the construction, enlargement, improvement and repair of a number of public facilities including additional park, road, police, fire, safety, sanitation and water facilities to serve such new development for the following reasons:

Prior to the July 1985 announcement by General Motors Corporation that it would locate its Saturn automobile manufacturing plant adjacent to the town of Spring Hill, its public facilities were adequate to serve its then population as well as its projected growth for a period of at least 20 years as its population had remained at or near 1,000 inhabitants for many years.

Spring Hill had in the late 1970's and early 1980's made substantial investments in its infrastructure including the following capital improvements:

1. The construction and installation of its first sanitary sewer system and the construction of the sewage treatment plant north of the Kedron Road, several miles outside its then present city limits;

2. The expansion and improvement of its water system including the construction of the present tank located adjacent to the City Hall, the enlargement of the size of certain water mains and the installation of a pump to fill the reservoir.

3. The repaving of all streets damaged by the water and sewer line construction which included almost every street within the city limits with the exception of U.S. Highway 31.

It had also renegotiated its 1965 contract with the Columbia Board of Public Utilities which furnishes Spring Hill its entire water requirements by extending it for an additional 40 years from 1979.

The size of Spring Hill had remained more or less constant since its initial incorporation in about the year 1836 and its population had actually decreased since that date. Subsequent to Saturn, Spring Hill undertook several major annexation programs as the result of which its pre-Saturn size of approximately 900 acres is now approximately 3,000 acres.

The residential and some limited commercial and industrial developments and those proposed or foreseen within the annexed areas have created demands for additions and expansions

to the public facilities and infrastructure of the town of Spring Hill including but not limited to:

An additional fire hall, an additional water storage facility, the improvement of certain roads, especially Buckner Road, Kedron Road, and Beechcroft Road, the acquisition of additional police cars, fire fighting equipment and eventually construction of its own facilities to acquire its own public water supply either from underground sources or Duck River and the construction and operation of a water treatment plant as well as the water lines required to connect the eventual source of water to the treatment plant. Also, the new subdivisions are in immediate need of street lights; and

Whereas, a study of the requirements of such new facilities has been referred to a committee of which Gwynne Evans was the Chairman; and

Whereas, this committee has made certain recommendations which have been considered and approved by the Board of Mayor and Aldermen;

Now, therefore, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN of the Town of Spring Hill, that, to the extent that revenues become available, it hereby adopts the following capital

improvements program which will be funded in whole or in part by certain revenues realized by the imposition of an Adequate Facilities Tax and Impact Fees on new developments;

PROPOSED IMPROVEMENTS AND ESTIMATED COSTS

1994-1999

1. STREET IMPROVEMENTS	
a. Kedron Road Improvement	\$ 500,000
b. Buckner Road Improvement	100,000
c. Buckner Lane Improvement	50,000
d. Moore Lane Improvement	200,000
e. Depot Street Improvement	<u>100,000</u>
	\$ 950,000
2. NEW WATER STORAGE FACILITIES	
a. Williamson County Tank	\$ 200,000
b. Kedron Road Tank	<u>200,000</u>
	\$ 400,000
3. NEW FIRE HALL	\$ 100,000
4. NEW FIRE EQUIPMENT (pumper, tanker truck, rescue equipment vehicle, extraction equipment, gear for additional firemen, etc.)	\$375,000
5. ADDITIONAL POLICE CARS	\$ 50,000
6. ADDITIONAL PUBLIC WORKS EQUIPMENT	\$ 130,000
7. WATER SUPPLY AND TREATMENT PLANT	\$2,000,000
8. UPGRADING SANITARY SEWER SYSTEM	<u>\$ 200,000</u>
TOTAL ESTIMATED COSTS	\$4,205,000

To the extent that revenues become available for such improvements, the foregoing capital improvements program is hereby adopted.

In anticipation of the collection of such fees, one or more of the above projects may be financed by means of debts

secured by the full faith and credit of the Town of Spring Hill which, to the extent such funds are available, will be repaid by the revenues realized from the Adequate Facilities Tax and Impact Fees.

Passed and adopted by the Board of Mayor and Aldermen on the 20th day of December, 1993.



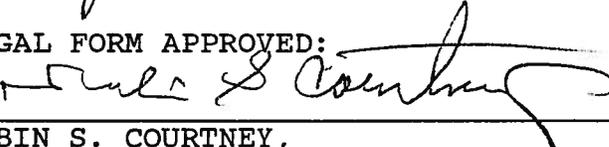
FREEMAN COWHERD, MAYOR

ATTEST:



JUNE QUIRK, RECORDER

LEGAL FORM APPROVED:



ROBIN S. COURTNEY,
TOWN ATTORNEY

CHAPTER 6: ADEQUATE FACILITIES TAX

Section

- 5-601 Short title
- 5-602 Purpose
- 5-603 Findings
- 5-604 Authority
- 5-605 Definitions
- 5-606 Capital improvements plan
- 5-607 Tax levy
- 5-608 Probation of issuance of building permit or certificate of occupancy
- 5-609 Collection of tax
- 5-610 Use and segregation of tax funds
- 5-611 New tax levy
- 5-612 Exemptions from tax
- 5-613 Protest of tax
- 5-614 Additional authority
- 5-615 Non-repealer

§ 5-601 SHORT TITLE.

This chapter shall be known and cited as the "Spring Hill Adequate Facilities Tax".
(2011 Code, § 5-601)

§ 5-602 PURPOSE.

This chapter is intended to assure the provision of adequate park, road, police, fire, safety, sanitation, sewer and water facilities to serve new development in the city by requiring each new development to pay a tax proportionate to the need for new facilities created by such development, the proceeds of which shall be used exclusively to fund capital improvements made necessary by new growth.

(2011 Code, § 5-602)

§ 5-603 FINDINGS.

The Board of Mayor and Aldermen (hereinafter "Board") hereby finds and declares that:

Spring Hill - Municipal Finance and Taxation

(A) The city is experiencing rapid pollution and employment growth, as a result of the location of the General Motors Corporation's Saturn Plant;

(B) The city will experience an increase of 600 or more residential dwelling units by the year 1999;

(C) The anticipated population growth in the city creates the demand for additional road, park, police, fire, safety, sanitation and water facilities;

(D) The city, insofar as its revenues allow, is committed to the provision of such public facilities and services at levels of service necessary to support anticipated residential growth;

(E) The city has prepared a ten-year capital improvements plan which, to the extent possible, identifies such facilities and services levels and designates the sources of funding the same;

(F) The estimated capital improvements costs of these facilities to serve new growth for the next ten years will be approximately \$10,000,000;

(G) The city's capital improvements plan apportions the costs of providing additional public facilities and services among existing and future users of such facilities in proportion to the demands for these facilities generated by such users, the Board realizing that the city's facilities before Saturn were adequate for its population at that time and its pre-Saturn rate of growth for the next 20 years;

(H) The demand for additional public facilities to serve new growth in the city is generated by residential development and, to some extent, by non-residential development, such as the Ryder Transportation facilities, and anticipated future non-residential development; taking into consideration factors such as usage of public facilities by employees residing outside of the city and demand for specialized services necessitated by non-residential development. The ratio of the impact on public facilities and services attributable to new residential development and new non-residential development as to the pre-Saturn demands of the city is approximately 100 to one (100:1);

(I) The legislature of the state has authorized the city to impose an adequate facilities tax on the privilege of engaging in the business of development; and

(J) The tax herein imposed is within the statutory limits established by the legislature and is otherwise reasonable and equitable.
(2011 Code, § 5-603)

§ 5-604 AUTHORITY.

This chapter is imposed under the charter powers of the city, and under the authority conferred on the city to levy an adequate facilities tax on the privilege of engaging in development by the state's Priv. Acts 1988, Ch. 173 (HB 2436).
(2011 Code, § 5-604)

§ 5-605 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING. 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.

BUILDING PERMIT. A permit issued by the Building Official authorizing performance of a specified activity in or on a structure or building.

CAPITAL IMPROVEMENT. A park or recreational facility; police facility; fire or safety facility; or water facility, with a life expectancy of three or more years, owned and operated by or on behalf of the city.

CAPITAL IMPROVEMENTS COSTS. The cost of land acquisition, planning, design or construction for a capital improvement.

CAPITAL IMPROVEMENTS PLAN. The proposed schedule of future capital improvements, listed in order of construction priority over a five-year period, the associated capital improvements costs and the anticipated funding sources for each project together with the list of projected long-range capital improvements and capital improvements costs for the next 20 years.

CERTIFICATE OF OCCUPANCY. 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.

CITY. The City of Spring Hill, Tennessee.

DEVELOPMENT. 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 non-residential use.

DWELLING UNIT. 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.

FLOOR AREA. The total of the gross horizontal area of all floors which will be heated or cooled, including such usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of a party wall separating such buildings or

portions thereof, or within lines drawn parallel to and two feet within the roof line of any building or portions thereof without walls, but excluding farm buildings and sheds and, in the case of non-residential 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.

NON-RESIDENTIAL. The development of any property for any use other than residential use, except as may be exempted by this chapter.

PERSON. Any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate or other group or combination acting as a unit, and the plural as well as the singular number.

PLACE OF WORSHIP. The portion of a building owned by a religious institution which has tax-exempt status, which is used for worship services and related functions, but does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

PUBLIC BUILDINGS. A building owned by the state or any agency thereof, a political subdivision of the state, including, but not necessarily limited to, counties, cities, school districts and special districts or the federal government or any agency thereof.

RESIDENTIAL. The development of any property for a dwelling unit or units.

STRUCTURE. Anything which is constructed or erected, and the use of which requires more or less permanent location on ground or attachment to something having permanent location on ground, not, however, including wheels; an edifice of any kind; any production or piece of work, artificially built up or composed of parts of and joined together in some definite manner.
(2011 Code, § 5-605)

§ 5-606 CAPITAL IMPROVEMENTS PLAN.

(A) There is hereby adopted the capital improvements plan for the city for the years 1994-1999 set forth in Res. 93-12, a copy of which is set out in App. B of this code of ordinances and incorporated by reference herein or as it may be amended by resolution or ordinance from time to time.

(B) The fact that the capital improvements plan also identifies the capital costs of public facilities and services other than capital improvements as defined in this chapter has no effect on the computation or assessment of taxes herein established.
(2011 Code, § 5-606)

§ 5-607 TAX LEVY.

(A) There is hereby levied a tax on each person engaging in the business of development in the city, which tax is to be paid at the time the building permit is issued as provided in § 5-609 of this chapter, as follows:

(1) Fifty cents per gross square foot of new residential or each non-residential development;
and

(2) Five hundred dollars for each residential unit and each non-residential building.

(B) Provided, however, that, the total fees herein imposed shall in no event exceed \$1 per gross square foot of each such development.

(2011 Code, § 5-607) (Ord. 06-35, passed 5- -2006)

§ 5-608 PROBATION OF ISSUANCE OF BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY.

No building permit, nor certificate of occupancy, for new development in the city shall be issued unless and until the tax herein imposed has been paid in full by the person engaging in such new development, as provided in § 5-609 of this chapter.

(2011 Code, § 5-608)

§ 5-609 COLLECTION OF TAX.

(A) Each applicant for a building permit for new development shall state, on a form provided by the city, the amount of gross square footage contained in the development for which the permit is sought.

(B) The city's Building Official shall calculate the tax due on the development and collect such tax in cash prior to acceptance of the application for the permit.

(C) In the event that a building permit is not required (or was issued prior to 4-1-1994) for the new development, the applicant for a certificate of occupancy shall state the amount of gross square footage contained in the development for which the certificate is sought, and the city's Building Official shall calculate the tax due on the development and collect such tax in cash prior to acceptance of the application for the certificate.

(D) In its sole discretion, the city may permit a person engaging in the business of developments, upon application for a building permit for a development, to defer payment of the tax until the time for issuance of the certificate of occupancy for such development; provided that, such person provides security for the full amount of the tax due in a form acceptable to the city.

(2011 Code, § 5-609)

§ 5-610 USE AND SEGREGATION OF TAX FUNDS.

All taxes on new development collected pursuant to this chapter shall be deposited in a separate account. Funds of the account shall be expended solely for those capital improvements identified in the city's capital improvements plan.
(2011 Code, § 5-610)

§ 5-611 NEW TAX LEVY.

(A) The Board may, from time to time, amend the tax herein imposed on new development, based upon adoption of a revised capital improvements plan, which identifies new capital improvements costs reasonably attributable to the new development.

(B) Such tax shall be collected prospectively only.
(2011 Code, § 5-611)

§ 5-612 EXEMPTIONS FROM TAX.

No tax shall be assessed or collected for the development of:

(A) Public buildings; or

(B) Places of worship.
(2011 Code, § 5-612)

§ 5-613 PROTEST OF TAX.

Any person aggrieved by the assessment of the tax herein authorized may protest such assessment in the manner provided by the laws of the state.
(2011 Code, § 5-613)

§ 5-614 ADDITIONAL AUTHORITY.

The city's adequate facilities tax on new development is in addition to all other authority the city may exercise to impose taxes, fees, assessments or other revenue raising or land development regulatory measures granted either by private or public acts of the state and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.
(2011 Code, § 5-614)

§ 5-615 NON-REPEALER.

The provisions of this chapter shall in no manner repeal, modify or interfere with the authority granted by any other public or private law applicable to the city.
(2011 Code, § 5-615)

CHAPTER NO. 173

HOUSE BILL NO. 2436

By Napier, Hobbs

Substituted for: Senate Bill No. 2468

By Richardson

AN ACT to authorize the Town of Spring Hill to levy and collect a privilege tax on new development within its city limits in order to provide that new development contribute its fair share of the costs of providing public facilities and services made necessary by such new development.

WHEREAS, after an intense national competition, the State of Tennessee successfully negotiated with the General Motors Corporation to locate its Saturn plant in Tennessee; and

WHEREAS, General Motors Corporation selected and is presently constructing the Saturn automotive assembly plant adjacent to the town of Spring Hill; and

WHEREAS, the investment in said plant is anticipated to be approximately \$3.5 billion when the plant is complete, the largest single private investment in the Town's history; and

WHEREAS, a significant portion of Spring Hill lies within Williamson County, Tennessee, which has been the fastest growing county in the state for the past fifteen (15) years, having been impacted by the rapid growth in the metropolitan area of Nashville; and

WHEREAS, there is currently under construction the Saturn Parkway which will extend from Interstate Highway 65 to the Town of Spring Hill, which Parkway is located within the corporate limits of the Town of Spring Hill; and

WHEREAS, anticipated growth from the expansion of Nashville is expected to accelerate due to the location of the Hub of American Airlines into Southern Middle Tennessee, including the Spring Hill vicinity; and

WHEREAS, the Saturn plant is anticipated to stimulate commercial, office, industrial and warehouse development in Spring Hill in the vicinity of the Saturn plant; and

WHEREAS, the projected non-residential development and the availability of jobs is to stimulate a significant demand for new dwelling units in Spring Hill; and

WHEREAS, current projections show that:

(1) the population of Spring Hill will increase in geometric proportions as a result of these changes;

(2) projected growth and land use development will cause a demand for municipal provided capital facilities (roads, jails, parks, etc.) over the next fifteen (15) years;

(3) the city's present revenue raising authority is limited and relies heavily on intergovernmental transfers which are not subject to city control and on property taxes, which would impose the costs of new growth on existing residents rather than on new residents and businesses who create the demand for the additional expenditures; and

WHEREAS, Spring Hill is committed to both present and future residents in maintaining a level of public facilities and services commensurate with those presently provided; and

WHEREAS, Spring Hill is prepared to impose a fair, equitable and reasonable share of the costs of providing the necessary public facilities and services on residents of the municipality; and

WHEREAS, the city's present population employment base, tax base and budget cannot alone support the additional revenues needed to supply facilities to serve new growth without a substantial increase in the property tax rate on existing development; and

WHEREAS, the introduction of the Saturn plant in Maury County, the American Airlines Hub in Davidson County, and the continued expansion of the Nashville Metropolitan area represent both an extraordinary economic opportunity for the State of Tennessee as well as a potential economic burden on the existing residents of Spring Hill; and

WHEREAS, due to these unique circumstances, it is necessary and appropriate that Spring Hill be given authorization to extend its taxing power to enable the city to impose a fair and reasonable share of the costs of public facilities necessitated by new development on that development so as not to create an unfair and inequitable burden on existing city residents; and

WHEREAS, there is precedent in the State of Tennessee for such additional tax measures to impose costs on those who benefit from improvements and where the result would otherwise be to impose an unfair burden on existing residents; and

WHEREAS, the most logical and effective mechanism to accomplish the intended result would be the imposition of a new privilege tax on new development in Spring Hill; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the "Spring Hill Adequate Facilities Tax".

SECTION 2. As used in this act, unless a different meaning appears from the context:

(a) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home. This will not pertain to buildings used for agricultural purposes.

(b) "Building Permit" means a permit for development issued in Spring Hill.

(c) "Capital Improvement Program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.

(d) "Certificate of Occupancy" means a license for occupancy of a building or structure issued in Spring Hill.

(e) "Development" means the 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 non-residential use.

(f) "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.

(g) "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 buildings or the center lines of party walls separating such buildings 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.

(h) "General Plan" means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional areas and meeting the provisions set forth in Tennessee Code Annotated, Sections 13-3-301, 13-3-302, and 13-4-102. For purposes of this act only, a general plan may consist solely of the land development element which sets out a plan or scheme of future land usage.

(i) "Governing Body" means the municipal legislative body of Spring Hill, Tennessee.

(i) "Major Street or Road Plan" means the plan adopted by the planning commission, pursuant to Tennessee Code Annotated, Sections 13-3-402 and 13-4-302, showing, among other things, "the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways...".

(k) "Non-Residential" means the development of any property for any use other than residential use, except as may be exempted by this act.

(l) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust,

receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(m) "Place of Worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(n) "Public Buildings" means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(o) "Public Facility or Facilities" means a physical improvement undertaken by the county or city, including, but not limited to the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the county and/or city.

(p) "Residential" means the development of any property for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this act to authorize Spring Hill to impose a tax on new development in the city payable at the time of issuance of a building permit or certificate of occupancy so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of development within Spring Hill, except as provided in Section 6 herein, is declared to be a privilege upon which Spring Hill may, by ordinance of the governing body, levy a tax in an amount not to exceed the rate set forth in Section 7.

SECTION 5. The governing body shall impose the tax authorized herein by resolution after adopting a capital improvements program indicating the

need for the cost of public facilities anticipated to be funded, in part, by this tax and after finding that the need for such public facilities is reasonably related to new development in the city. The ordinance of the governing body imposing this tax shall state the rate of tax on new residential and non-residential development. The governing body shall, by ordinance, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

- (a) Public buildings.
- (b) Places of worship.

SECTION 7. For the exercise of the privilege described herein, Spring Hill may impose a tax¹ on new development not to exceed:

- (a) one dollar (\$1.00) per gross square foot of new residential development.
- (b) two dollars (\$2.00) per gross square foot of new non-residential development. The town may develop a tax rate schedule by which residential and non-residential uses are classified by type for the purpose of imposition of the tax authorized herein.

SECTION 8. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined or, if a building permit is not required, at the time of application for a certificate of occupancy by the city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy. The city shall, before issuance of the building permit or certificate of occupancy, receive payment in cash or by a negotiable instrument payable to the city. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in Spring Hill unless the tax has been paid in full or a negotiable instrument payable to the city has been received.

SECTION 9. All tax funds collected shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

¹Ord. #94-2 established certain impact fees and taxes on developments and developers of projects within the town. These fees and taxes are set out in title 5, chapters 5 and 6 in the municipal code.

SECTION 10. The authority to impose this privilege tax on new development in Spring Hill is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by the private or public acts of the State of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

SECTION 11. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Spring Hill. This act shall be deemed to create an additional and alternative method for Spring Hill to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the city.

SECTION 12. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the municipal legislative body of Spring Hill before October 1, 1988. Its approval or nonapproval shall be proclaimed by the presiding officer of the municipal legislative body and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 13.

PASSED: March 28, 1988

s/Ed Murray
SPEAKER OF THE HOUSE OF REPRESENTATIVES

s/John S. Wilder
SPEAKER OF THE SENATE

APPROVED this 8th day of April 1988

s/Ned McWherter
GOVERNOR