

Janet Burlingame
Cass County Clerk

Deputy Clerks:
Kathy Lambert
Lisa Francey
Aerin Crust

FILED
MAY 11 2006
Missouri Public
Service Commission

State of Missouri
ss.
County of Cass

I Janet Burlingame, County Clerk within and for Cass County Missouri, do hereby certify that the foregoing

Order No. 05-02 dated February 1, 2005

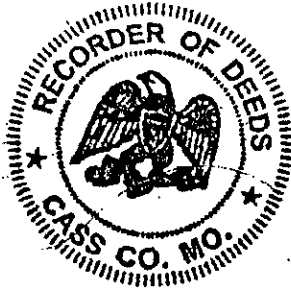
is a full, true and accurate copy of an instrument of writing, as the same is found in the Records of my Office.

IN WITNESS WHEREOF, I hereunto set my hand and affix my seal at my Office in Harrisonville, Missouri, this 28th day of April, A.D., 2006.

Janet Burlingame County Clerk

(Seal)

Exhibit No. 111
Case No(s). EA 2006-0309
Date 5-8-06 Rptr ju



C B

FILE NUMBER 331695
OR BK 02645 PG 0592
RECORDED 07/06/2005 02:41:47 PM
RECORDING FEE 0.00
SANDRA A (SANDY) GREGORY, RECORDER OF DEEDS
CASS COUNTY, MISSOURI

Total Recording Fees: \$ N/A

Space above line for Recorder's Certification

RECORDER OF DEEDS CERTIFICATE

EXEMPT DOCUMENT

This document has been recorded under exempt status pursuant to RSMo 59.310.4 and this certificate has been added to your document in compliance with the laws of the state of Missouri.

Sandra A. Gregory
Recorder of Deeds

Cass County Courthouse
102 E Wall Street
Harrisonville, Missouri 64701
1-816-380-8118

gregoryjesagreg@aol.com

BOOK 3645 PAGE 592

Certified Copy of Record

STATE OF MISSOURI,

County of Cass,

} ss.

In the County Commission of Cass County, Missouri, at the January Term, 2005, held on the 1st day of February, 2005, amongst others, were the following proceedings:

CASS COUNTY, MISSOURI

ORDER NO.05-02

Amending Subdivision Regulations Enacting a
New Article 13 to be Known as Transportation Impact Fees
February 1, 2005

An Order amending the Cass County, Missouri Subdivision Regulations, by enacting a new Article 13 to be known as transportation impact fees, which imposes transportation impact fees on all new development in the County and establishing the effective date.

WHEREAS,

AMENDING the Cass County, Missouri Subdivision Order, known as the Order No. 05-02, establishing transportation impact fees to be imposed on new development in the County to ensure that transportation facilities will be adequate to accommodate the demand for such facilities generated by new development and to assess the cost of such facilities pro rata against new development in proportion to the needs generated by such development; reciting findings and intent; reciting the authority of Cass County, Missouri to enact transportation impact fees; defining the terms used in the transportation impact fee order; requiring the payment of transportation impact fees by new development and designating the time of payment; specifying the applicability of the transportation user fee order; authorizing the establishment of a transportation impact fee service areas; providing for the calculation of the transportation impact fees; regulating the collection and expenditure of funds collected; creating separate funds for the monies collected, providing for credits, and refunds; providing for periodic review; providing for appeals; providing for liberal construction; providing for separability; inclusion in the Cass County, Missouri Code; and providing for an effective date.

BE IT ORDAINED BY THE COUNTY COMMISSION OF CASS COUNTY, MISSOURI, as follows:

Section 1 – Short Title. This order shall be known and cited as the “Cass County Transportation Impact Fee Order”.

Section 2 – Findings. The County Commission of Cass County, Missouri hereby finds and declares that:

- (a) Cass County, Missouri has experienced rapid population growth over the last decade that has strained the ability of the County to provide transportation facilities to meet the demand created by new development.
- (b) The Comprehensive Plan for the County, adopted in 2005 and census and population studies to date indicate that this growth will continue at a substantial rate and will place additional significant demands on the County to provide transportation facilities to support new development.
- (c) Funds collected pursuant to the Cass County Transportation Impact Fee Order shall be expended only on transportation facilities and facility expansions within the transportation road impact fee service area from which the property, with respect to which the road impact fee was paid, is located.
- (d) The transportation facilities and facility expansions constructed within the district have a “rational nexus” to and provide benefit to those properties with respect to which fees are imposed pursuant to this Order.
- (e) It is the intent of this Order that, by establishment of transportation impact fees, new development in the County will pay its fair share of the cost of transportation facilities and facility expansions required to serve such new development and that the fees paid with respect to each new development are, based on an individualized determination, roughly proportionate, both in nature and extent, to the demand that such new development will have on transportation facilities.
- (f) It is the intent of this Order that the transportation facilities and expansions financed through the transportation impact fees established hereby be based, when applicable, upon the County’s comprehensive Plan, Major Street Plan, and capital improvement program and are consistent therewith.
- (g) It is the intent of this Order to establish a system of transportation impact fees and not to levy a “tax” or “fee” as such term is used in Article X, Section 22 of the Missouri Constitution.
- (h) The County Commission has considered the matter of financing of new transportation facilities and facility expansions, the need for which is necessitated by new development. The Commission hereby finds and declares that a transportation impact fee imposed upon

new development to finance County transportation facilities and facility expansions, the need for which is reasonably related to the new development, furthers the public health, safety and welfare of Cass County. The County Commission therefore deems it advisable to adopt the Cass County Transportation Impact Fee Order as hereinafter set forth.

Section 3 – Intent.

- (a) The Cass County Transportation Impact Fee Order is intended to impose an impact fee upon the approval of a final plat, if a final plat must be approved prior to issuance of a building permit pursuant to the Cass County Land Development Code, or to the issuance of a building permit, if approval of a final plat is not so required, in an amount based upon the demand for transportation facilities or facility expansions attributable to the new development and the cost of providing such facilities necessary to serve new development. The impact fee shall be payable upon issuance of a building permit. This Order shall not be construed to authorize imposition of fees for transportation facilities or facility expansions the need for which is attributable to existing development or "pass through" traffic.
- (b) The intent of this Order is to establish a system of impact fees, as "user fees" are interpreted in recent Missouri case law, that will be used to pay for the cost of providing transportation facilities and facility expansions, the demand for which is generated by new development. The amount of the impact fee to be paid by each new development is calculated to be roughly proportionate to the demand for transportation facilities and facility expansions created by each such new development. This Order is specifically designed so as not to establish a "tax" or "fee", as such terms are used in Article X, Section 22 of the Missouri Constitution, but rather as a mechanism to equitably shift the burden of the cost of such facilities and expansions from the existing general public (which has already paid its fair share of the cost of the existing network of roads and roadways and the associated appurtenances and which will continue to pay for the cost of maintenance and repair of such existing roadways through funds other than those derived from the system of impact fees) to new development, which will generate the need for the transportation facilities and facility expansions that will be provided by monies derived from this system of impact fees. The monies collected from imposition of this system of impact fees are to be used to offset the cost of providing services to new development in the form of transportation facilities and facility expansions and the system is designed to ensure these monies collected may only be expended to provide such services. The monies may not be paid into the County's general fund to defray customary governmental expenditures. In addition, the system is designed so that the impact fee: (1) is paid upon the approval of designated development applications not periodically; (2) is required to be expended for the provision of transportation facilities that directly benefit the person who has generated the need for such facilities within a reasonable period of time from the date such fee is paid; (3) is directly proportional in amount to the transportation services provided; and (4) and is for a service that has not been historically provided exclusively by monies derived from taxes.

- (c) Towards this end, the transportation impact fee adopted pursuant to this Order is based upon the calculation methodology described in "Cass County Comprehensive Plan of 2003," as updated with amendments thereto.

Section 4 – Authority.

- (a) In the creation of a system of transportation impact fees, the County Commission is exercising the powers granted to the County pursuant to the Missouri Constitution and Chapters 82, 64, and 445 of the Revised Missouri Statutes. The provisions of this Order shall not be construed to limit the scope of the power necessary to accomplish the purposes that this Order is designed to help achieve.

Section 5 – Definitions. As used in this Order, the following words and terms shall have the following meanings, unless another meaning is clearly intended;

- (a) "Applicant" shall mean the owner, or duly designated agent of the owner, of land on which an application for final plat approval or a building permit is requested and a transportation impact fee is due pursuant to this Order.
- (b) "Assessment" shall mean the determination of the amount of the transportation impact fee per service unit that may be collected from a new development pursuant to this Order.
- (c) "Building" shall mean a structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.
- (d) "Building Permit" shall mean the permit required for new construction and additions pursuant to Section ____ of the Cass County Code, as amended.
- (e) "County" shall mean Cass County, Missouri.
- (f) "Commission" shall mean the County Commission of Cass County, Missouri.
- (g) "Credit" shall mean the amount of the reduction of a transportation impact fee designed to fairly reflect the value of transportation facilities provided by an applicant pursuant to the County's subdivision regulations and requirements.
- (h) "Demand" shall mean the increment of roadway that a proposed new development will consume (measured in vehicle miles at p.m. peak hour) based on the trips that the proposed type of new development will generate, calculated in accordance with the ITE Trip Generation Manual.
- (i) "Department" shall mean the Cass County Planning and Zoning Department or its legally designated representative.

- (j) "Developer" shall mean a person who engages in development.
- (k) "Development" shall mean the construction, erection, reconstruction or use of any building for non-residential use which requires issuance of a building permit, except as specifically excepted in Section 6(c) of this Order; and the final platting of land for residential development.
- (l) "Final Plat Approval or Approval of a Final Plat" shall mean the point at which the applicant has complied with all conditions of approval and the plat has been released for filing with the County.
- (m) "Impact Fee" shall mean a fee imposed on a pro rata basis in accordance with the demand for off-site transportation facilities or facility expansions, as defined in this Order, created by new development.
- (n) "Capital Improvement Plan" (CIP) shall mean the five (5) year schedule of public improvements adopted by the County annually as a part of the County Budget process.
- (o) "ITE Trip Generation Manual" shall mean and refer to the report entitled Trip Generation (6th ed. 1997) of the Institute of Transportation Engineers.
- (p) "Land Use Assumptions" shall mean the projection of population and employment growth and associated changes in land uses, densities and intensities adopted by the County, as may be amended from time to time, upon which the transportation impact fee capital improvements plan for each service area is based.
- (q) "Map" shall mean and refer to the map entitled "Transportation Impact Fee Service Areas" that is on file in the office of the County Clerk and which that the geographical extent of the transportation facilities impact fee service areas. This Map shall be identified by the signature of the Chairman of the County Commission and shall bear the Seal of the County under these words: "This is to certify that this is the official copy of the map defining the geographical extent of the transportation impact fee districts prescribed by the Cass County Comprehensive Plan".
- (r) "New Development" shall mean a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any building, any use or extension of use of land, or other such similar activity that has the effect of increasing the demand for transportation facilities or facility expansions, measured by the number of trips to be generated by this activity, and that requires either the approval and filing with the County a plat pursuant to the County's subdivision regulations; or the issuance of a building permit, except as specifically excepted in Section 6(c) of this Order.
- (s) "Non-Residential Development" shall mean all development other than residential development and public and quasi-public use, as herein defined.

- (t) "Off-Site Transportation Facilities" shall mean and include the transportation facilities and facility expansions, as defined in this Order, that are included in a transportation facility impact fee capital improvements plan.
- (u) "On-Site Transportation Facilities" shall mean those transportation facilities and facility expansions that, under County orders, resolutions and department regulations, a developer or property owner is required to provide at no cost to the County.
- (v) "Property" shall mean a legally described parcel of land capable of development pursuant to applicable County orders and regulations.
- (w) "Property Owner" shall mean any person, group of persons, firm or firms, company or companies, corporation or corporations, or any other entity having an ownership interest in property with respect to which an application for development approved has been submitted.
- (x) "Public and Quasi-Public Use" shall mean a development owned, operated or used by the County; any subdivision of the State of Missouri, including but not limited to school districts; the State of Missouri and any agencies or departments thereof; and the Federal Government and any agencies or departments thereof; and the Federal Government and any agencies or departments thereof.
- (y) "Recoupment" shall mean the imposition of an impact fee to reimburse the County for the cost of transportation facilities and/or facility expansions that the County has previously oversized to serve new development.
- (z) "Residential Development" shall mean the development of any property for a dwelling or dwellings as indicated by an application for final plat approval.
- (aa) "Road or Roadway" shall mean any road designated in the County's Road Master Plan, as may be amended from time to time. Roadway does not include any roadway designated as a numbered highway on the official Federal or Missouri Highway System.
- (bb) "Service Area" shall mean the land area with the geographic boundaries of the maps adopted by the County Commission by resolution pursuant to Section 8 of this Order and for which a transportation impact fee capital improvements plan has been adopted.
- (cc) "Service Unit" shall mean the standard unit of measure as shown on the conversion table in Schedule 1 adopted by the County Commission by resolution pursuant to Section 9(b) of this Order that can be converted to trip generation rates and that serves as a standardized measure of demand attributable to a new development.
- (dd) "Subdivision Regulations" shall mean, the Subdivision Regulations of Cass County, and all duly adopted amendments thereto.

- (ee) "Transportation Facilities" shall mean roads and roadways or appurtenances to roadways that include, but are not limited to: rights-of-way; intersectional improvements; signalization or traffic control devices; medians; turn lanes; sidewalks, curbs, gutters and drainage facilities associated with roadways; street lighting; and any other ancillary roadway appurtenances or portions thereof included in a transportation impact fee capital improvements plan. Transportation facilities shall include any improvement or appurtenance to an intersection with a roadway officially enumerated in the Federal or Missouri Highway System. Transportation Facilities exclude on-site transportation facilities.
- (ff) "Transportation Facility Costs" the amount spent, to be spent or authorized to be spent in connection with the provision of transportation facilities and/or facility expansions, which may include, but which are not limited to: funds spent on the planning; design; engineering; surveying; financing; acquisition of right-of-way (including land purchase, court awards and costs, and attorney's fees and expert witness fees), whether conveyed by deed or easement; construction (including, but not limited to widening, paving, and grading); administration; independent engineer or financial consultant preparing or upgrading); administration; independent engineer or financial consultant preparing or updating transportation impact fee capital improvement plans who is not a County employee; or incidental expenses directly associated with the provision of transportation facilities.
- (gg) "Transportation Facility Expansion" shall mean the expansion of the capacity of an existing roadway in the County to serve new development included in a transportation impact fee capital improvements plan, but does not include the repair, maintenance, modernization, or expansion of an existing roadway to better serve existing development.
- (hh) "Transportation Impact Fee" shall mean an impact fee imposed on new development by the County pursuant to this Order in order to fund or recoup the cost of transportation facilities or facility expansions necessitated by and attributed to this new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such transportation facilities or facility expansions. Impact fees also do not include funds deposited in escrow for the construction of transportation facilities as required by the County's subdivision regulations.
- (ii) "Transportation Impact Fee Capital Improvement Plan" shall mean the ten (10) year schedule of transportation facilities and facility expansions for each service area, which plan is used as the basis for computations of the transportation impact fee per service unit for each service area pursuant to Section 9 of this Order.
- (jj) "Transportation Impact Fee Rate" shall mean the amount of the applicable transportation impact fee per trip generated by new development as established by resolution adopted by the County Commission from time to time and attached hereto as Schedule 1.

- (kk) "Transportation Impact Fee Service Area" shall mean an area as depicted on the Cass County Comprehensive Plan within which impact fees for transportation facilities or facility expansions will be collected from new development occurring within this area and within which fees so collected will be expended for those transportation facilities or facility expansions identified in the applicable transportation impact fee capital improvement plan.
- (ll) "Zoning Order" shall mean the Zoning Order of Cass County, Missouri, and all duly adopted amendments thereto.

Section 6 – Applicability of Transportation Impact Fee.

- (a) This Order shall be applicable to residential and non-residential development, but not public and quasi-public uses, on property in the County that is in a service area designated by resolution by the County Commission pursuant to Section 8 of this Order. The provisions of this Order shall apply uniformly within each service area.
- (b) This Order shall be applicable to all new development that has not received final plat approval, if final plat approval is required by County orders or regulations prior to the issuance of a building permit, and shall be applicable to all lot splits, replats to add lots, and minor subdivision approvals; or if final plat approval is not required, new development for which no building permit has been issued.
- (c) This Order shall not be applicable to applications for:
- (1) building permits for:
 - (A) room additions, remodeling, rehabilitation or other improvements to an existing building, provided there is no increase in demand for transportation facilities or facility expansions;
 - (B) rebuilding of a damaged or destroyed building, whether voluntary or involuntary, provided that such rebuilding does not result in an increase in demand for transportation facilities or facility expansions; or
 - (C) a change in occupancy that does not result in an increase in demand for transportation facilities or facility expansions.
 - (2) replat approval, provided that such replat does not result in an increase in demand for transportation facilities or facility expansions.
- (d) Where this Order becomes applicable to an increase in demand for transportation facilities, the amount of the transportation impact fee shall be based solely upon the increase in demand for transportation facilities or facility expansions generated by the new development.

Section 7 – Impact Fee is a Condition of Development Approval. No application for new development shall be approved within the County without assessment of a transportation impact fee pursuant to this Order, except as specifically excepted by this Order; and no building permit shall be issued unless the applicant has paid the transportation impact fee imposed by and calculated pursuant to this Order, except as specifically excepted by this Order. An application for a building permit, approved by the County for a new development in a service area, without payment by the applicant and collection by the Department of the transportation impact fee per service unit, as required by this Order, shall be null and void.

Section 8 – Land Use Assumptions.

- (a) The resolution adopting land use assumptions for each service area within the County is attached here as Exhibit "A" and is incorporated herein by reference.
- (b) The land use assumptions for the County shall be updated at least every three (3) years, in accordance with Section 17 of this Order.
- (c) The amendment to the land use assumptions shall incorporate projections of changes in land uses, densities, intensities and population for the County over at least a ten (10) year period for each service area designated in the resolution adopted pursuant to Section 8 of this Order.

Section 9 – Establishment of Transportation Impact Fee Service Areas. In furtherance of the implementation of the Cass County Transportation Impact Fee Order, the boundaries of transportation impact fee service area shall be established as depicted on the Cass County Comprehensive Plan 2005 and may be reestablished by adoption of a resolution by the County Commission that shall include a map showing the geographic boundaries and a legal description of each service area, as deemed appropriate by the County Commission.

Section 10 – Transportation Impact Fees per Service Unit.

- (a) The transportation impact fee per service unit for each service area shall be computed by the dividing of total costs of transportation facilities and facility expansions necessitated by and attributable to the new development in each service area, as identified in the transportation impact fee capital improvement plan for the service area, based upon the land use assumptions for that service area.
- (b) The transportation impact fee per service unit that is to be paid by each new development within a service area shall be the impact fee rate established by resolution of the County Commission initially upon adoption of this Order (attached hereto as Schedule 1) and thereafter as part of the update provided for in Section 17 or at such other times as deemed necessary by the County. If no action is taken by the County Commission to amend the impact fee rate, the rate then in effect shall remain in effect.

Section 11 - Assessment of Transportation Impact fees.

- (a) Upon receipt of an application for a preliminary plat, or upon receipt of an application for the final discretionary approval required for approval of development prior to issuance of a building permit, if approval of a plat is not otherwise required, or upon written request of the applicant if no further discretionary approval is required before issuance of a building permit, the Zoning Officer shall:
 - (1) determine the applicability of this Order to the property for which the application is received within three (3) working days of receipt of such application by the Zoning Officer;
 - (2) if this Order is not applicable, the Zoning Officer shall notify the applicant of its inapplicability, and shall process the application in accordance with all relevant County orders and regulations;
 - (3) If this Order is applicable, the Zoning Officer shall preliminarily calculate and assess the amount of the transportation impact fee that will be imposed on the proposed new development pursuant to this Order by multiplying the impact fee rate by the number of service units for the proposed development with respect to which such approval is being sought. This assessment shall be an estimate only for the benefit of the applicant and shall be subject to final determination at the time that the applicant requests final plat approval or a building permit for property that does not require approval of a plat prior to the issuance of a building permit.
- (b) All preliminary plats approvals subject to this Order, and with respect to all proposed new development that does not require approval of a preliminary plat, all development approvals that are the last discretionary approval required by County orders and regulations prior to issuance of a building permit subject to this Order, shall be conditioned on the payment of the impact fee imposed pursuant to this Order.
- (c) The imposition of the transportation impact fee does not alter, negate, supersede or otherwise affect any of the requirements of the County, including the County zoning order and subdivision regulations and county, state or federal legislation or regulations that may be applicable to a development, which may impose roadway system related requirements, rights-of-way dedication requirements and design and construction standards for roadways.

Section 12 - Computation of Road Impact Fee

- (a) Upon receipt of an application for a building permit or final plat approval for a new development subject to this Order, in such instances where final plat approval is required, the Zoning Office shall calculate the amount of the applicable transportation impact fee due by calculating the Impact Fee Rate Per Vehicle Trip at the following rates:

Residential:

\$1,001 per residential unit.

Non-Residential:

\$801 manufacturing/industrial

\$601 commercial/retail

Impact Fee Calculation for Non-Residential:

Sq. Ft. /1,000 x Trip rate = Total Trips
(per building permit) (per County determination)

Total Trips x Fee Rate = Total fee Liability
(per County resolution)

Total Tax Liability less Credits = TOTAL AMOUNT DUE
(Credit eligibility per County Determination)

- (1) multiplying the number of Total Trips by the Fee Rate per ITE land use using Schedule 1.;
 - (2) The amount of each transportation impact fee due shall be reduced by any allowable credits, in the manner provided in Section 12 of this Order.
 - (3) The total amount of the transportation impact fee due for the new development shall be calculated and attached to the final plat or a building permit application, as the case may be, as a condition of approval.
- (b) Transportation impact fees shall be collected at the time an application for a building permit is filed and accepted by the County for a development with respect to which this Order is applicable.
 - (c) If the building permit for which a transportation impact fee has been paid has expired, and a new application is thereafter filed, the transportation impact fee due shall be computed using Schedule 2 then in effect, with credits for previous payments of fees being applied against the new fees due.
 - (d) A building permit application or application for final plat approval must be resubmitted to the Zoning Officer and the amount of the transportation impact fee recalculated if the applicant alters the proposed development in such a way as to result in an increased number of Total Trips. In this case the initial impact fee collected shall be determined by using Schedule 1 then in effect, and the additional fees shall be collected upon application for a new building permit.

Section 13 - Credits Against Transportation Impact Fees.

- (a) The County shall allow a credit against the amount of the transportation impact fee due for the reasonable value of transportation facilities or facility expansions that have been dedicated to and accepted by the County on or after February 1, 2005, which may include the value of rights-of-way for roadways, or transportation facilities or facility expansions constructed pursuant to written agreement with the County, pursuant to the rules established in this Section or pursuant to guidelines adopted by the County Commission by resolution.
- (b) The County shall credit escrow fees deposited with the County for transportation facilities prior to the effective date of this Order against the amount of the transportation impact fee due, subject to guidelines established by the County Commission by resolution.
- (c) All credits against transportation impact fees shall be subject to the following limitations and shall be granted pursuant to this Order and additional standards promulgated by the County consistent with and in implementation of this Order, which may be adopted as administrative guidelines.
 - (1) No credit shall be given for dedication or construction of on-site facilities.
 - (2) The unit cost used to calculate the credit shall not exceed those assumed for the transportation facilities included in the applicable transportation impact fees capital improvements plan.
 - (3) No credit shall be given for transportation facilities or facility expansions that are not included in the applicable transportation impact fee capital improvements plan. Credit may only be given for the dedication of right-of-way or construction of facilities made and/or completed and accepted by the County after February 1, 2005.
 - (4) Credits given for new developments pursuant to this Order, which have received final plat approval prior to the effective date of this Order, shall be reduced by subtracting an amount equal to the transportation impact fees that would have been paid by the applicant for the number of existing service units using Schedule 1 to this Order.
 - (5) If a credit applicable to a plat has not been exhausted within five (5) years from the date of the acquisition of the first building permit issued with respect to the plat or within this period as may be otherwise designated by contract, the credit shall lapse.
 - (6) The County will not reimburse a property owner or developer for a credit when no transportation impact fees for the new development can be collected pursuant to this Order or for any amount exceeding the total transportation

impact fee due for the new development, unless otherwise agreed to by the County.

- (d) An applicant must apply for a credit against transportation impact fees due for a new development either at the time of application for a final plat approval or at the time of building permit application, if final plat approval is not required, unless the County agrees in writing to a different time. The applicant shall file a petition for credits with the Zoning Officer on a form provided by the County for this purpose. The Zoning Officer shall provide the applicant, in writing, with a decision on the credit request, including the reasons for the decision. The decision shall specify the maximum value of the credit that may be applied against a transportation impact fee, which amount and the date of the determination shall be associated with the plat or the building permit for the new development, as the case may be.
- (e) The available credit associated with the plat shall be applied against a transportation impact fee in the following manner:
 - (1) For single-family residential lots in a new development that has received final plat approval only of single-family residential lots, the credit shall be prorated equally among these lots and shall remain applicable to these lots, to be applied at the time of filing and acceptance of an application for a building permit.
 - (2) For all other types of new development, including those involving mixed uses, which have received final plat approval, the credit applicable to the plat shall be applied to the transportation impact fee due at the time of acceptance by the County of the first building permit to which the credit is applicable, and thereafter to all subsequent building permits applications accepted until the credit has been exhausted.
 - (3) At its sole discretion, the County may authorize alternative credit agreements upon petition by the owner or developer in accordance with the guidelines established by resolution by the County Commission.

Section 14 - Establishment of Accounts.

- (a) The County's Finance Department shall establish an account for each transportation impact fee service area for which an impact fee is imposed pursuant to this Order. All impact fees collected within a service area shall be deposited into the account for the service area.
- (b) Interest earned on the funds in each account shall be considered funds of the account and shall be used only for the purposes authorized in Section 14 of this Order.
- (c) The County's Finance Department shall maintain and keep adequate financial records of the account that shall show the source and disbursement of all funds placed in or

expended from the account, and that ensure that the impact fees expended from the account are used only for the purposes authorized in Section 14 of this Order. Disbursement of funds shall be authorized by the County at such times as are reasonably necessary to carry out the purposes and intent of this Order; provided, however, that any impact fees paid shall be expended within a reasonable period of time, but not to exceed six (6) years from the date the fee is deposited into the account.

- (d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The fee for copying services shall be as established by the County.

Section 15 - Use of Proceeds of Impact Fee Account.

- (a) The impact fees collected for each service area pursuant to this Order may be used to finance or to recoup transportation facilities costs. Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the County to finance transportation facilities or facility expansions.
- (b) Impact fees collected pursuant to this Order shall not be used to pay for any of the following expenses: (i) construction, acquisition or expansion of transportation facilities other than those identified in the transportation impact fee capital improvement plan for the service area with respect to which the impact fee was collected; (ii) repair, operation or maintenance of existing transportation facilities; (iii) upgrade, expansion or replacement of existing transportation facilities to serve existing developments at the level of service established for transportation facilities or facility expansions necessary to serve new development; (iv) the cost of construction, acquisition or expansion of transportation facilities or transportation facility expansion necessary to accommodate "pass through" trips (i.e., trips using the transportation facility or facility expansion, but neither having an origin nor a destination in the transportation impact fee service area).
- (c) In the event that a transportation facility or facility expansion involves more than one transportation impact fee service area, funds from each transportation impact fee service area involved may be pooled to finance the transportation facility or facility expansion; provided, however, that in the event that funds expended from any service area exceed the proportionate share of the cost of the transportation facilities or facility expansion attributable to the development in the service area, the account shall be credited in the amount exceeding this share, to be repaid from the impact fee proceeds collected from other contributing service areas.

Section 16 - Appeals.

- (a) The property owner or applicant for new development may appeal the following decisions to a hearing officer: (i) the applicability of an impact fee to the

development; (2) the amount of the impact fee due; (3) the availability or the amount of a credit; (4) the applicability of a credit against an impact fee due; and (5) the amount of a refund due, if any.

- (b) The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the credit was not calculated in accordance with the provisions of this Order or the guidelines established for determining credits.
- (c) The property owner or applicant shall file a notice of appeal with the County Clerk within ten (10) days following the applicable decision. The application for development approval with respect to which the appeal is filed may be processed while the appeal is pending, provided that the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the County Attorney in an amount equal to the original determination of the impact fee due.
- (d) Within ten (10) days of the notice of appeal, or by such date as shall be agreed upon in writing between the applicant and County, applicant shall submit to the Department traffic engineering studies containing documentation of trip generation rates for the proposed new development, vehicle miles at p.m. peak hour to be generated by the proposed new development, and other trip or demand data appropriate for determination of the impact fee rate for the proposed new development and economic documentation studies containing documentation of the cost per lane per mile for roadway construction appropriate for the proposed new development and credits attributable to the proposed new development that can be expected to be available to replace the portion of the traffic demand generated by the proposed new development.

Section 17 - Refunds.

- (a) Any impact fee or portion thereof collected pursuant to this Order that has not been expended with the service area with respect to which the fee or portion thereof was paid within six (6) years from the date of payment of the impact fee, upon written application by the person who originally paid the impact fee, if made within thirty (30) days of the date that is six (6) years from the date of payment of the impact fee, shall be refunded to the property owner, together with interest attributable to the amount of the refund.
- (b) An impact fee collected pursuant to this Order shall be considered expended if, within six (6) years from the date of payment, the total expenditures for transportation facilities or facility expansions within the service area exceeds the total fees collected for such facilities during that period.
- (c) If a refund is due pursuant to subsections (a) and (b) of this Section, the County shall pro-rate the same by dividing the difference between the amount of the fees collected and amount of expenditures by the total number of service units within the service area for the period from which impact fees were collected to determine the refund due

per service unit. The refund shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be apportioned based upon that amount.

- (d) If the building permit for a new development for which an impact fee has been paid has expired, and a modified or new application has not been filed within six (6) months of the expiration, the County shall, upon written application, refund the amount of the impact fee to the person who paid the impact fee. The County may establish administrative guidelines for refunding of impact fees collected for which construction plans have been abandoned.

Section 18 - Updates to Planning and Revision of Fees. The County shall update its land use assumptions and transportation impact fee facility improvement plans and shall recalculate its impact fees not less than once every three (3) years.

Section 19 - Agreement for Capital Improvements.

- (a) An applicant for a new development may construct or finance transportation facilities or facility expansions if required or authorized by the County, by entering into an agreement with the County prior to the issuance of any building permit for the new development. The agreement shall be in a form approved by the County, and shall identify the estimated cost of the transportation facilities or facility expansions, the schedule for initiation and completion of the transportation facilities or facility expansions, and contain a requirement that the transportation facilities or facility expansions be designed and constructed to comply with County standards and all other terms and conditions as deemed necessary by the County. The agreement shall provide for the method to be used to determine the amount of the credit to be given against impact fees due for the new development.
- (b) In the event that County elects to reimburse an owner for the dedication, construction or financing of transportation facilities or facility expansions, the terms of reimbursement shall be incorporated in the agreement required by subsection (a) of this Section.

Section 20 - Use of Other Financing Mechanisms.

- (a) The County may finance transportation facilities or facility expansions through the issuance of bonds, through the formation of special, benefit, or improvement districts or other assessment districts or through any other authorized mechanism, in the manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.
- (b) Except as hereinafter provided, the assessment and collection of impact fees shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment that is lawfully imposed on and due against the property.

- (c) The County may pay all or part of impact fees due for a new development taking into account available credits pursuant to guidelines duly adopted by the County Commission pursuant to Section 13 of this Order.

Section 21 - Impact Fee As Additional and Supplemental Regulation. Impact fees established by this Order are additional and supplemental to, and not in substitution for, any other requirement proposed by the County on the development of land or the issuance of building permits. Impact fees are intended to be consistent with and implement the policies of the County's comprehensive plan, the capital improvements plan (CIP), the transportation impact fee capital improvement plans, the zoning order, subdivision regulations, and other County policies, orders and resolutions by which the County seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

Section 22 - Relief Procedures.

- (a) Any person who has paid an impact fee or the property owner with respect to which an impact fee has been paid may petition the County Commission to determine whether any duty required by this Order has not been performed within the time frames so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within sixty (60) days of the request. If the County Commission determines that the duties required pursuant to the Order are late in being performed, it may cause the duty to commence within sixty (60) days of the day of the request and to continue until completion.
- (b) The County Commission may grant a variance or waiver from any requirement of this Order, upon written request by developer or property owner subject to the Order, following a public hearing and only upon a finding that strict application of such requirement would, when regarded as a whole, result in a taking of the property.
- (c) The County Commission may grant a waiver from any requirement of this Order on other grounds as may be set forth in guidelines adopted by the County Commission by resolution.
- (d) If the County Commission grants a variance or waiver to the amount of the impact fee due for a new development under this Section, it shall cause to be appropriated, from other County funds, the amount of reduction in the impact fees, to the account for the service area in which the property with respect to which the variance or waiver has been granted is located.

Section 23 - Exemption from the Order. Any building permit application, with respect to which no final plat approval was required, that was duly accepted for filing prior to the effective date of this Order and that is subsequently granted and any building permit application with respect to which a final plat was approved prior to the effective date of this Order shall be exempt from the assessment and payment of an impact fee, unless any such application thereafter expires.

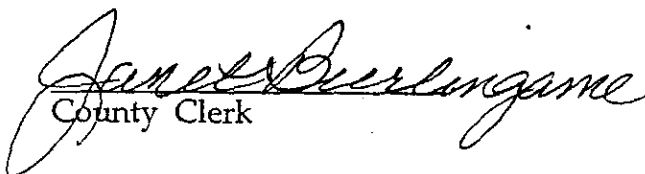
Section 24 - Liberal Construction. The provision of this Order shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, general welfare and convenience of the citizens of the County.


Section 25 - Severability. Should a sentence, clause, part or provision of this Order be declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of the Order as a whole, or any part thereof other than the part determined to be invalid.

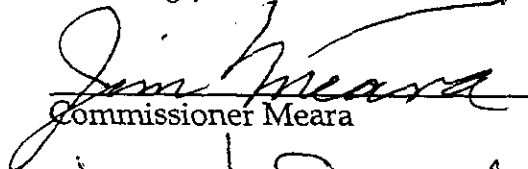
Section 26 - Inclusion of the Order. The provisions of this Order shall become and be made a part of the Cass County Subdivision Regulations. The Sections of this Order may be renumbered or relettered to accomplish such purposes; the word "Order" may be changed to "Section," "Article," "Chapter," or other appropriate word.

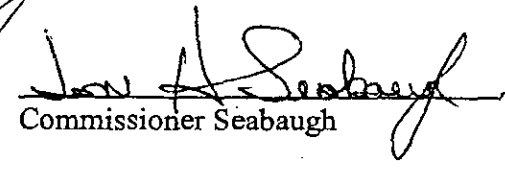
Section 27 - Effective Date. This Order shall be in full force and effect from and after passage on February 1, 2005.

ATTEST:


County Clerk


Presiding Commissioner Mallory


Commissioner Meara


Commissioner Seabaugh

CASS COUNTY, MISSOURI
Schedule 1: TRIP GENERATION TABLE-February 1, 2005

Land Use	ITE Land Use	Unit of Measures	PM Trips per Unit *	% New Trips	Adjusted Peak Trips
Rates Residential \$1,001/Unit	210 Residential Units	Dwelling Unit	1.00	100.0%	1.00
	255 Congregate Care Facility	Dwelling Unit	0.29	100.0%	0.29
Commercial \$601 per Adjusted Peak Trip	320 Hotel/Motel **	1000 sf	0.83	98.0%	0.81
	520 School	1000 sf	1.19	100.0%	1.19
	560 Church/Synagogue	1000 sf	0.66	90.0%	0.59
	565 Daycare Center	1000 sf	13.18	74.0%	9.75
	620 Nursing Home	1000 sf	0.42	75.0%	0.32
	710 Office building	1000 sf	1.49	92.0%	1.37
	720 Medical-Dental Offices	1000 sf	3.72	77.0%	2.86
	812 Bldg Materials	1000 sf	4.49	81.0%	3.64
	813 Free Standing Discount Superstore	1000 sf	3.87	61.0%	2.36
	814 Specialty Retail Store	1000 sf	2.71	49.0%	1.33
	817 Nursery Garden Center	1000 sf	3.80	81.0%	3.08
	931(831) Restaurant	1000 sf	7.49	82.0%	6.14
	Fast Food Rest.w/drive-thru	1000 sf	153.83	43.0%	66.15
	936(836) Drinking Place	1000 sf	11.34	90.0%	10.21
	841 Car Dealership	1000 sf	2.64	79.0%	2.09
	943(845) Service Station with Conven Mkt ***	1000 sf	96.37	38.0%	36.62
	850 Supermarket	1000 sf	10.45	58.0%	6.06
	851 Convenience Store-24 hours w/o pumps	1000 sf	52.41	40.0%	20.96
	853 Convenience Store w/pumps ***	1000 sf	60.61	48.0%	29.09
	860 Wholesale	1000 sf	0.21	92.0%	0.19
	862 Home Improvement superstore	1000 sf	2.45	81.0%	1.98
	911 Walk-in-Bank	1000 sf	33.15	80.0%	26.52
	912 Drive-thru Bank	1000 sf	45.74	61.0%	27.90
Industrial \$801per Adjusted Peak Trip	110 Light Industrial	1000 sf	0.98	92.0%	0.90
	140 Manufacturing	1000 sf	0.74	92.0%	0.68
	150 Warehouse Storage	1000 sf	0.47	92.0%	0.43
	151 Mini-Warehouses	1000 sf	0.26	92.0%	0.24

Based on Institute of Transportation Engineers, Trip Generation Manual, 7th Edition, 2003

Effective 2-1-05

* Based on weekday p.m. peak hour of the adjacent road, one hour before 4:00 and 6:00 p.m.

** Based on .6 trips per occupied room, at 80% average occupancy

*** Addition of new fueling positions at existing sites will use trip rate based on no. of new fueling positions

STATE OF MISSOURI
COUNTY OF CASS

ON THIS 19th DAY OF April IN THE YEAR OF 2004⁵, BEFORE
ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED
Janet Burlingame
KNOWN TO ME TO BE THE PERSON[S] WHOSE NAME[S] IS/ARE SUBSCRIBED
TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED THE HE/SHE/THEY
EXECUTED THE SAME FOR THE PURPOSES THERIN CONTAINED. IN
WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL.

LISA FRANCY
Notary Public-Notary Seal
STATE OF MISSOURI
Cass County

My Commission Expires: Mar. 11, 2008

Lisa Francy
SIGNATURE OF NOTARY

Lisa Francy
PRINT NAME

MY COMMISSION EXPIRES:

3/11/08