

## HAMILTON TOWNSHIP, OHIO

AMENDED RESOLUTION NO. 2007 - 0418

### AMENDED RESOLUTION IMPLEMENTING IMPACT FEES WITHIN THE UNINCORPORATED AREAS OF HAMILTON TOWNSHIP, OHIO FOR ROADS, FIRE AND POLICE, AND PARKS

**WHEREAS**, the law of the State of Ohio, as affirmed by the Ohio Supreme Court, authorizes home rule governments to implement impact fees which assure existing and new property owners and businesses that the level of service provided for roadways, police, fire and emergency services; and park systems will be continued; and

**WHEREAS**, the Hamilton Township Board of Trustees has determined that Hamilton Township, Ohio, being a Home Rule Township vested with the authority and responsibility to provide services to its citizens, employees, property owners and those traveling through the Township, under the provisions of Revised Code Section 504 and the Ohio Constitution, have the proper authority to implement this impact fee system; and

**WHEREAS**, this Resolution has been advertised, made available to the public, and has been read by title on two separate days as required by Revised Code §504.10; and

**WHEREAS**, the Hamilton Township Board of Trustees has held a public hearing concerning the proposed impact fees and has had a work session with its professional consultant and has spent nine months studying the proper ways to implement impact fees; and

**WHEREAS**, the Hamilton Township Board of Trustees has instructed the staff and consultants to confer with the development community active in Hamilton Township, Ohio to evaluate the alternatives in the implementation of a fair impact fee system; and

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF TRUSTEES OF HAMILTON TOWNSHIP, OHIO**, all Trustees concurring, that the following impact fee system is hereby adopted for all of the unincorporated areas of Hamilton Township, Ohio:

**I. Factual Findings.** For the purpose of authorizing and implementing this impact fee system in Hamilton Township, Ohio, the Hamilton Township Board of Trustees hereby makes the following factual findings:

(1) The Hamilton Township Board of Trustees hereby accepts the Duncan Associates Hamilton Township Impact Fee Study completed in February, 2007 as an authoritative basis and equitable methodology to calculate and impose a fair impact fee in Hamilton Township, Ohio.

(2) The Hamilton Township Board of Trustees hereby determines that it would be appropriate to ensure that impact-generating development bears a proportionate share of the cost of improvements to the Township's major roadway facilities, its fire and police protection, and its park system; to ensure that the proportionate share does not exceed the cost of providing facilities to the development that paid the fee; and to ensure that funds collected from impact-generating developments are actually used to construct system improvements that serve such development. It is

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further the intent of the Trustees to use impact fees to implement the Township's Thoroughfare Plan, its Fire/Rescue Capital Improvements Plan, its Police Capital Improvements Plan and its Park Capital Improvement Plan.

(3) It is the intent of this resolution to collect funds from impact-generating developments which are proportionate to the amount of funds necessary to offset the demands generated by that development for capital improvements for which the impact fee is to be paid.

(4) The Hamilton Township Board of Trustees hereby determines that, as suggested by the dissenting justices in the Supreme Court case of *City of Beavercreek, Ohio v. Homebuilders Association of Dayton and Miami Valley*, the funds generated by the impact fee shall be spent on the necessary capital improvements within a reasonable time period after the collection of fees in order to assure the fairness of the impact fee system and to serve the development which generated the fee.

(5) The Hamilton Township Board of Trustees hereby determines that the impact fee system established by this Resolution is not a tax on the right of property owners to subdivide and develop their property, but is a fee which assures the continuation of capital services to benefit one of the fastest growing townships in the State of Ohio and the United States of America, utilizing a system which is widely accepted as a valid exercise of the police power to protect health, safety and the wellbeing of the community.

(6) The Hamilton Township Board of Trustees hereby determines that the protection of the health, safety, and general welfare of the citizens and property owners of the Township requires that the major roadway facilities of the Township be improved to maintain them at their current levels of service in order to meet the demands of new development.

(7) The Hamilton Township Board of Trustees has determined that the protection of the health, safety, and general welfare of the citizens and property owners of the Township requires that the fire protection and police protection facilities of the Township be improved to maintain them at their current levels of service in order to meet the demands of new development.

(8) The Hamilton Township Board of Trustees hereby determines that the protection of the health, safety, and general welfare of the citizens and property owners of the Township requires that the park facilities of the Township be improved to maintain them at their current levels of service in order to meet the demands of new development.

(9) The Hamilton Township Board of Trustees hereby determines that the implementation of this impact fee system will enable the Township to impose a fair and equitable means of sharing the costs of required improvements to the major roadway facilities, the police and fire protection facilities, and provision of park facilities on those developments which create the need.

(10) The Hamilton Township Board of Trustees hereby determines that the consultant has studied and relied upon the Land Use Plan prepared and approved by the Warren County Regional Planning Commission and previously implemented by the Township; and the Hamilton Township Thoroughfare Plan prepared by Wilbur Smith & Associates and implemented by the Township and incorporated into the Warren County Thoroughfare Plan, and the Hamilton Township Parks Capital Improvement Plan completed in 2005 by CDS & Associates which was also implemented by Hamilton Township; and the Hamilton Township Analysis of Current Fire and Rescue

Operations completed in 2004 by Kramer & Associates; and the Police Capital Improvement Plan, completed by CDS & Associates and McKenna & Associates in the establishment of this impact fee system. The Hamilton Township Board of Trustees hereby reaffirms the authenticity of such studies and relies upon them in the establishment of this impact fee system.

(11) The Hamilton Township Board of Trustees hereby determines that the methodology and the study which underlies this impact fee system, prepared by Duncan Associates sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the Township's major roadway system facilities, its fire protection system, police protection system and park system.

(12) The Hamilton Township Board of Trustees hereby determines that the impact fees established by this resolution are based on the Duncan Associates impact fee study and that the fees imposed upon all developers by this Resolution do not exceed the costs of acquiring and constructing additional capital facilities and equipment required to serve all of the new developments which will pay the fees.

(13) The Hamilton Township Board of Trustees hereby determines that the types of capital improvements which will be generated from the implementation of the impact fee are of a nature that they will benefit all of the impact generating developments in the Township after the implementation of the fee, and therefore, it is appropriate to treat the entire Township as one single service area for calculating, collecting and spending the impact fees for roadway services, police and fire services and park services.

(14) The Hamilton Township Board of Trustees hereby determines that there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this resolution and the impact fees that such development will be required to pay, as required by Ohio law.

(15) The Hamilton Township Board of Trustees hereby determines that this impact fee system, by which the impact fees paid by impact-generating development will be used to maintain the existing level of service by improving the major roadway facilities, the police and fire facilities and park facilities, so that the development that pays the fees will receive a corresponding benefit within a reasonable period of time after the fee is paid.

**II. Definitions.** For the purpose of interpreting this resolution, certain words used herein are defined as follows:

(1) *Applicant*: The applicant for a zoning certificate for which an impact fee is due pursuant to the provisions of this resolution.

(2) *Dwelling Unit*: Any building or portion thereof designed or intended to be used exclusively for residence purposes by one family or housekeeping unit, including a permanently sited manufactured home, but not a manufactured home in a manufactured home park, industrialized unit, mobile home, tent, cabin, trailer, travel trailer, trailer coach, camper on a truck, or other recreational vehicle.

(3) *Equivalent Dwelling Unit (EDU)*: Represents the impact of a typical single-family dwelling on the park system. A typical single-family detached dwelling unit represents, on average, one EDU. A dwelling unit of another housing type represents a fraction of an EDU, based on the ratio of the average household size of the other housing type to the average household size of the typical single-family detached unit.

(4) *Fire Protection System*: Land, facilities, vehicles and capital equipment owned by the Township and used for providing fire protection services, including fire stations, fire department administrative offices, training facilities, fire-fighting apparatus and support vehicles.

(5) *Fire Protection System Improvements*: Capital improvements that result in a net expansion of the capacity of the fire protection system to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute fire protection system improvements, except to the extent that they have the net effect of adding capacity. For example, half of the cost of tearing down a 5,000 square foot fire station and replacing it with a 10,000 square foot fire station could reasonably be considered a system improvement.

(6) *Functional Population*: The number of "full-time equivalent" people present at the site of a land use.

(7) *Gross Floor Area*: 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 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 unscreened residential porches or balconies, vehicle parking garages, accessory or commercial vehicular parking areas and structures, and nonresidential arcades and similar open areas that are accessible to the general public, and are not designed or used as sales, display, storage, service or production areas.

(8) *Impact Fee Administrator*: The Township Community Development Director, who is responsible for administering the provisions of this resolution, or his or her designee. The Impact Fee Administrator is charged with the responsibility of implementing and administering this fee by the Trustees.

(9) *Impact Fees*: The impact fees are the sum of the following three impact fees as calculated pursuant to the terms of this Resolution: The road impact fees; the police fee and fire fee which collectively are the police and fire impact fees; and the park impact fees.

(10) *Impact Fee Study*: The *Impact Fee Study* prepared for the Township by Duncan Associates, initiated in July, 2006 and completed in February, 2007, and accepted by the Hamilton Township Board of Trustees in March, 2007, as it may be amended subsequently.

(11) *Impact-Generating Development*: Any land development designed or intended to permit a use of the land that will increase the number of "service units," as that term is defined hereunder.

(12) *Impact-Generating Development, Commencement of*: Occurs upon the application for a zoning certificate for new construction or redevelopment.

(13) *Land Use Type*: Usage of property as identified in the fee determination schedules of this Resolution. Such land usage types are not equivalent to the land use types of the Hamilton Township Land Use Plan or the Hamilton Township Zoning Code.

(14) *Major Roadway System*: Arterials and collectors, including County roads but excluding US 22 and SR 48, located within the Township's unincorporated area and identified in the Township's *Major Thoroughfare Plan*.

(15) *Major Roadway System Improvements*: Improvements that expand the capacity of the major roadway system, including but not limited to the acquisition of right of way, construction of new roads, widening of existing roads, intersection improvements, and installation of traffic signals. Lane reconstruction, sidewalk construction, medians, landscaping, street lighting and other ancillary components of a capacity-expanding road improvement shall not be considered system improvements when not an integral part of a capacity-expanding improvement.

(16) *Park System*: Land, facilities and improvements to Township-owned or maintained land used for recreational purposes, and recreational facilities and improvements made or installed by the Township on non-Township property and available for public use.

(17) *Park System Improvements*: Capital improvements that result in a net expansion of the capacity of the park system to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute park system improvements.

(18) *Person*: An individual, corporation, governmental agency or body, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

(19) *Police Protection System*: Land, facilities, vehicles and capital equipment owned by the Township and used for providing police protection services, including police stations, police department administrative offices, training facilities, police vehicles and police equipment.

(20) *Police Protection System Improvements*: Capital improvements that result in a net expansion of the capacity of the police protection system to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute police protection system improvements, except to the extent that they have the net effect of adding capacity. For example, half of the cost of tearing down a 5,000 square foot police station and replacing it with a 10,000 square foot police station could reasonably be considered a system improvement.

(21) *Service Units*:

(a) For road impact fees, service units are the vehicle-miles of travel on the major roadway system:

(b) For fire and police impact fees, service units are functional population:

(c) For park impact fees, service units are park equivalent dwelling units.

(22) *System Improvements:*

- (a) For road impact fees, major roadway system improvements;
- (b) For fire and police impact fees, fire protection system improvements and police protection system improvements,
- (c) For park impact fees, park system improvements.

(23) *Vehicle-Miles of Travel (VMT):* The number of vehicles traveling during a given time period times the distance in miles that these vehicles travel.

(24) *Vehicle-Miles of Capacity (VMC):* The maximum number of vehicles that can be accommodated on a roadway times the length of the roadway in miles.

(25) *VMC/VMT Ratio:* The system-wide ratio of VMC to VMT in the major roadway system.

(26) *Zoning Certificate:* The document signed by the Zoning Inspector of Hamilton Township, Ohio which acknowledges that a proposed use, structure, building or lot either complies with or is legally nonconforming to the provisions of the zoning ordinance, or is an authorized variance, special use permit or modification therefrom.

### **III. Time of Fee Obligation and Payment.**

(1) On and after the effective date of this resolution, any person who causes the commencement of impact-generating development shall be obligated at that time to pay the impact fee, pursuant to the terms of this resolution. The obligation to pay the impact fees shall run with the land.

(2) The impact fee shall be determined and paid at the time of issuance of a zoning certificate for the development. The applicant for the zoning certificate shall be responsible for paying the fee.

(3) Once the Impact Fee Administrator has been provided with all of the necessary data in order to issue a zoning certificate for a development, the calculation and determination of the impact fee shall be completed no later than three business days after the data has been provided.

### **IV. Impact Fee Determination.**

Any person who commences an impact-generating development, except those exempted or preparing an independent fee calculation study, shall pay an impact fee in accordance with the following fee schedules. There shall be one, single fee imposed upon such person based upon the following three components.

(1) Road Impact Fee Component.

Land Use Type	Unit	Road Impact Fee
Single-Family Detached	Dwelling	\$3,964
Multi-Family	Dwelling	\$2,782
Hotel/Motel	Room	\$2,857
Retail/Commercial	1,000 sq. ft.	\$7,266
Office/Institutional	1,000 sq. ft.	\$4,562
Industrial	1,000 sq. ft.	\$3,512
Warehouse	1,000 sq. ft.	\$2,503
Church	1,000 sq. ft.	\$2,797
School	1,000 sq. ft.	\$3,237
Nursing Home	1,000 sq. ft.	\$1,871
Hospital	1,000 sq. ft.	\$7,212

The Trustees have determined that no road impact fee shall be utilized or collected to maintain State Route 48 or State Route 22.

(2) Fire Protection and Police Protection Impact Fee Component.

Land Use Type	Unit	Fire Protection Fee	Police Protection Fee
Single Family Detached	Dwelling	\$335	\$206
Multi-Family	Dwelling	\$187	\$115
Hotel/Motel	Room	\$160	\$ 98
Retail/Commercial	1,000 sq. ft.	\$432	\$265
Office/Institutional	1,000 sq. ft.	\$244	\$150
Industrial	1,000 sq. ft.	\$153	\$ 94
Warehouse	1,000 sq. ft.	\$ 97	\$ 60
Church	1,000 sq. ft.	\$ 91	\$ 56
School	1,000 sq. ft.	\$138	\$ 85
Nursing Home	1,000 sq. ft.	\$244	\$150
Hospital	1,000 sq. ft.	\$244	\$150

The fire protection fee and police protection fee are separate fees that cover distinctly different facilities.

(3) Parks Impact Fee Component.

Land Use Type	Unit	Park Impact Fee
Single-Family Detached	Dwelling	\$1,648
Multi-Family	Dwelling	\$ 921

No park component of the impact fee shall be assessed for land use types other than single-family detached and multi-family.

**V. Administration of Impact Fees.**

(1) The full impact fee amounts shall be phased in over an 820-day period after the effective date of this resolution, as follows:

(a) No fee shall be charged for zoning certificates issued within the first 90 days after the effective date of this resolution.

(b) Following the first 90-day period, the fees shall go into effect at one-third of the rates shown in the Fee Determination Schedules of Sections IV (1), IV (2) and IV (3) above, rounded to the nearest dollar.

(c) Following 455 days after the effective date of this resolution, the fees shall be increased to two-thirds of the rates shown in the Fee Determination Schedules in Sections IV (1), IV (2) and IV (3) above, rounded to the nearest dollar.

(d) Following 820 days after the effective date of this resolution, the fees shall be increased to the full amounts of the rates shown in the Fee Determination Schedules in Sections IV (1), IV (2) and IV (3) above, rounded to the nearest dollar.

(2) If the type of impact-generating development is not specified on the above schedule, the impact fee administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. The impact fee administrator shall be guided in the selection of a comparable type of land use by trip generation rates contained in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal.

(3) In general, impact fees shall be paid based on the principal use of a building or lot. For example, a warehouse that contained a small administrative office would be assessed at the warehouse rate for all of the square footage. Shopping centers are assessed at the retail/commercial rate, regardless of the type of tenants. For a true mixed-use development, such as one that includes both residential and nonresidential development, the fee shall be determined by adding up the fees that would be payable for each use as if it was a free-standing land use type pursuant to the fee schedule.

(4) If the type of impact-generating development is for a change of land use type or for the expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the fee for the new land use type as compared to the previous land use type.

(5) In the event that the proposed change of land use type, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of impact fees previously paid.

(6) Square feet in the fee schedule refers to gross floor area as herein defined.

## VI. Exemptions.

The following shall be exempt from the terms of this resolution and shall pay no impact fee. An exemption must be claimed at the time of application for a zoning certificate.

(1) Alterations of an existing dwelling unit where no additional dwelling units are created.

(2) Replacement of a destroyed, partially destroyed or moved residential building or structure with a new building or structure of the same use and with the same number of dwelling units as the original building or structure. This exemption shall not apply in the case of a destroyed, partially destroyed or moved structure which contains an illegal nonconforming use under the zoning regulations of Hamilton Township, Ohio.

(3) Replacement of a destroyed, partially destroyed or moved nonresidential building or structure with a new building or structure of the same use and not exceeding the gross floor area of the original building or structure.

(4) Any development for which a completed application for a zoning certificate was submitted prior to the effective date of this resolution, provided that the construction proceeds according to the provisions of the building permit for which the zoning certificate was issued and the permit does not expire prior to the completion of the construction. In the event that the building permit does expire before completion of construction, then the provisions of this impact fee shall apply to the development. In such case, the zoning certificate shall not be issued without the payment of the impact fee. In the event that the developer contends that the development has been completed to an extent that only insignificant construction remains, such as minor punch list items, such developer may apply for relief from the imposition of this fee pursuant to Section 26.01(B) hereunder as an appeal to the Hamilton Township Board of Zoning Appeals.

(5) The impact fee administrator shall determine the validity of any claim for exemption pursuant to the criteria set forth in this resolution. In the event that the developer contends that the determination of the Impact Fee Administrator is not correct, such developer may appeal within thirty days of the determination by the Impact Fee Administrator to the Hamilton Township Board of Zoning Appeals pursuant to provision 26.01 (A).

(6) In the event that the Township participates in a joint economic development district project, or participates in a County-wide economic development project, or through the exercise of its Home Rule or statutory powers, the Township participates in economic development projects, the Trustees may agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the Township. The Trustees may consider promoting the economic development of the Township through the economic development project. The right of the Trustees to participate in the economic development project is independent from the duty to administer the impact fee collection as herein described.

The determination of the economic development project will be determined, on a case-by-case basis, on new or expanding businesses engaged in:

(a) Warehouse development;

- (b) Manufacturing;
- (c) Office;
- (d) Distribution, or
- (e) Technology research and development.

The criteria for determining which projects qualify for an economic development grant includes the number and quality of jobs the project will generate and maintain, the ad valorem taxes the project will generate and whether the project is in compliance with the current version of the Hamilton Township Land Use Plan.

To be eligible for incentive consideration the business must:

(a) Create at least 15 qualifying jobs to Hamilton Township or Warren County within 24 months of building construction. A qualifying job is defined as a new, full-time job, guaranteed to last at least four years, which did not exist during the prior two years, and has a salary that exceeds the annual average wage in Hamilton Township, Warren County, Ohio, according to credible, public data as may be available.

(b) Make a minimum investment or expansion of \$700,000 in the building and/or equipment during the calendar year in which application is made for the grant or if less, 100% of its investment in the original facility before expansion.

(c) Provide evidence that the proposed use or expansion is in compliance with the Hamilton Township Land Use Plan and will meet the provisions of the Hamilton Township Zoning Code.

(d) Provide on-going company information for monitoring purposes.

Upon the grant approval by the Hamilton Township Trustees, the applicant will be required to enter into an Economic Development Agreement with the Township which provides for such conditions as the Trustees determine at such time, including the ability to recover Township paid impact fees as determined by the Trustees.

Any such decision to pay impact fees on behalf of an applicant shall be at the discretion of the Trustees and shall be made pursuant to goals and objectives articulated by the Trustees. Said goals and objectives are completely independent from the impact fee methodology.

#### **VII. Independent Fee Calculation.**

(1) In the event that the proposed development does not comprise a land use type which is identified under the land use types above, then the impact fee shall be computed by the use of an independent fee calculation study at the election and at the cost of the applicant, or at the cost of the Township in the event that the impact fee administrator determines that it shall be appropriate to conduct such an independent study to determine the appropriate fee. The independent study shall be initiated by the impact fee administrator any time that he or she determines that, due to the nature, the timing or the location of the proposed development, as well as the actual usage of the property and the likely impact it will have upon the usage of roadways, police and fire protection and parks.

that the development will be likely to generate impacts which are significantly more or significantly less than the amount which the impact fee would generate through the use of the schedules above.

(2) The preparation of the independent fee calculation study shall be the sole responsibility and cost of the applicant, unless the impact fee administrator determines that it would be appropriate for the Township to undertake the independent fee calculation study, and in such case, the cost shall be born by the Township.

(3) Any person who requests to perform an independent fee calculation study shall pay an application fee for administrative costs associated with the review and decision on such study, which shall be \$250.00.

(4) The independent fee calculation study, whether initiated by the developer or by the Township, shall be based on the same service standards and unit costs for facilities used in the impact fee study, and shall document the methodologies and assumptions used.

(5) An independent fee calculation study submitted for the purpose of calculating a road impact fee, a police and fire impact fee, or a park impact fee shall be based on data, information and assumptions from identified, reputable sources, provided that:

(a) The independent source is an accepted standard source of transportation engineering and planning data; or

(b) The independent source is a local study on trip characteristics carried out by a qualified transportation planner or transportation engineer pursuant to an accepted methodology of transportation planning or engineering.

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(6) The road impact fee component shall be calculated according to the following formula.

FEE	=	VMT x NET COST/VMT
<u>Where,</u>		
VMT	=	TRIPS x % NEW x LENGTH ÷ 2
NET COST/VMT	=	COST/VMC X VMC/VMT - CREDIT/VMT
TRIPS	=	Trip ends during an average weekday
% NEW	=	Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips
LENGTH	=	Average length of a trip on the major roadway system
÷2	=	Avoids double-counting trips for origin and destination
COST/VMC	=	Average cost to add a new daily vehicle-mile of capacity
VMC/VMT	=	The system-wide ratio of capacity to demand in the major roadway system (assumed 1.0)
CREDIT/VMT	=	Revenue credit per daily VMT

(7) The police and fire impact fee component shall be calculated according to the following formula.

(a) For Police:

FEE	=	FPOP x NET COST/FPOP
Where:		
FPOP	=	UNITS X FPOP/UNIT
UNITS	=	Number of dwelling units of each housing type in the development or thousands of square feet of nonresidential buildings of each land use type
FPOP/UNIT	=	Functional population represented by one dwelling unit of a given housing type or 1,000 square feet of nonresidential floor area of a given land use type. For residential development, functional population per unit is 60% of the average household size for that housing type. For nonresidential development, the functional population per unit is determined by the following formula:  $\text{Functional population/1000 sf} = (\text{employee hours/1000 sf} + \text{visitor hours/1000 sf}) + 24 \text{ hours/day}$ <p>Where:</p> $\text{Employee hours/1000 sf} = \text{employees/1000 sf} \times 8 \text{ hrs/day}$ $\text{Visitor hours/1000 sf} = \text{visitors/1000 sf} \times 1 \text{ hour/visit} \text{ (1/2 hour for industrial and warehousing uses)}$ $\text{Visitors/1000 sf} = \text{weekday ADT/1000 sf} \times \text{avg. vehicle occupancy} \cdot \text{employees/1000 sf}$ $\text{Weekday ADT/1000 sf} = \text{one-way average daily trips (total trip ends + 2)}$
NET COST/FPOP	=	NET COST/SF x SF/FPOP
NET COST/SF	=	Total replacement cost of existing police facilities and equipment less outstanding debt divided by building square feet of existing police stations
SF/FPOP	=	Total building square feet of existing police stations divided by total existing residential and nonresidential development in the township, expressed in terms of functional population

(b) For Fire:

FPE	=	FPOP x NET COST/FPOP
Where:		
FPOP	=	UNITS X FPOP/UNIT
UNITS	=	Number of dwelling units of each housing type in the development or thousands of square feet of nonresidential buildings of each land use type
FPOP/UNIT	=	Functional population represented by one dwelling unit of a given housing type or 1,000 square feet of nonresidential floor area of a given land use type. For residential development, functional population per unit is 60% of the average household size for that housing type. For nonresidential development, the functional population per unit is determined by the following formula:  $\text{Functional population/1000 sf} = (\text{employee hours/1000 sf} + \text{visitor hours/1000 sf}) \div 24 \text{ hours/day}$ <p>Where:</p> $\text{Employee hours/1000 sf} = \text{employees/1000 sf} \times 8 \text{ hrs/day}$ $\text{Visitor hours/1000 sf} = \text{visitors/1000 sf} \times 1 \text{ hour/visit}$ $(1/2 \text{ hour for industrial and warehousing uses})$ $\text{Visitors/1000 sf} = \text{weekday ADT/1000 sf} \times \text{avg. vehicle occupancy} - \text{employees/1000 sf}$ $\text{Weekday ADT/1000 sf} = \text{one-way average daily trips} / (\text{total trip ends} + 2)$
NET COST/FPOP	=	NET COST/SF x SF/FPOP
NET COST/SF	=	Total replacement cost of existing fire department facilities and equipment less outstanding debt divided by building square feet of existing fire stations
SF/FPOP	=	Total building square feet of existing fire stations divided by total existing residential and nonresidential development in the area served by the fire department, expressed in terms of functional population

(8) The park impact fee component shall be calculated according to the following formula.

FEE	=	EDUs x NET COST/EDU
Where		
EDUs	=	UNITS X EDUs/UNIT
UNITS	=	Number of dwelling units of each housing type in the development
EDUs/UNIT	=	Number of Equivalent Dwelling Units represented by one dwelling unit of a given housing type
NET COST/EDU	=	NET COST/ACRE x ACRES/EDU
NET COST/ACRE	=	Total replacement cost of existing park facilities less outstanding debt divided by existing park acres
ACRES/EDU	=	Existing park acres divided by total existing housing units in the township, expressed in terms of Equivalent Dwelling Units

(9) The impact fees calculated pursuant to the independent fee calculation shall apply only to the development being considered for which the study is based. It shall have no bearing upon prior and subsequent impact fees calculated pursuant to this resolution unless the unique usage, the nature of the property, the timing or the location of the development is nearly identical to that which was determined in the independent study. Further, the Trustees shall utilize such independent studies in making their re-determination of the methodology and administration of this fee pursuant to Section XI (5) hereunder.

#### VIII. Use of Fees.

(1) A road impact fee account, a fire impact fee account, a police impact fee account, and a park impact fee account that are distinct from the general fund of the Township, are hereby created, and the impact fees received shall be deposited into the appropriate interest-bearing account. The impact fee administrator, in conjunction with the Township Chief Fiscal Officer, shall obtain approval for the establishment and maintenance of these accounts by the State Auditor.

(2) Each separate account established above shall contain only those impact fees collected pursuant to this resolution, plus any interest that may accrue from time to time on such accounts. Any accrued interest shall be subject to the same restrictions as other funds in the account.

(3) Monies in each impact fee account shall be used for authorized purposes under the Resolution on projects which are to be initiated within three years of their collection date and are to be considered to be spent in the order collected or accrued, on a first-in/first-out basis.

- (4) The monies in each impact fee account shall be used only for the following:
- (a) In the case of road impact fees:
    - (i) To acquire and construct major roadway system improvements as identified in the Township Land Use Plan or as specifically determined by the Hamilton Township Trustees;
    - (ii) To pay debt service on any portion of any current or future general obligation bond or revenue bond used to finance major roadway system improvements that were not part of the existing level of service at the time of the last impact fee calculation and that still provide capacity to serve new development;
    - (iii) As described in subsection IX, Refunds; or
    - (iv) As described in subsection X, Reimbursements.
  - (b) In the case of fire impact fees:
    - (i) To acquire and construct fire system improvements;
    - (ii) To pay debt service on any portion of any current or future general obligation bond or revenue bond used to finance fire system improvements that were not part of the existing level of service at the time of the last impact fee calculation and that still provide capacity to serve new development;
    - (iii) As described in subsection IX, Refunds; or
    - (iv) As described in subsection X, Reimbursements.
  - (c) In the case of police impact fees:
    - (i) To acquire and construct police protection system improvements.
    - (ii) To pay debt service on any portion of any current or future general obligation bond or revenue bond used to finance police protection system improvements that were not part of the existing level of service at the time of the last impact fee calculation and that still provide capacity to serve new development;
    - (iii) As described in subsection IX, Refunds; or
    - (iv) As described in subsection X, Reimbursements.
  - (d) In the case of park impact fees:
    - (i) To acquire and construct park system improvements;

(ii) To pay debt service on any portion of any current or future general obligation bond or revenue bond used to finance park system improvements that were not part of the existing level of service at the time of the last impact fee calculation and that still provide capacity to serve new development.

(iii) As described in subsection IX, Refunds; or

(iv) As described in subsection X, Reimbursements.

(5) The monies in the road impact fee account, the fire impact fee account, the police impact fee account, and the park impact fee account shall not be used for the following:

(a) Rehabilitation, reconstruction, replacement or maintenance of existing facilities;

(b) Ongoing operational costs; or

(c) Debt service for any portion of any past general obligation bond or revenue bond that was used to finance major roadway system improvements that were part of the existing level of service at the time of the last impact fee calculations, or that were not used to finance major roadway system improvements, the debt service for any portion of the past general obligation bond or revenue bond that was used to finance fire protection or police protection system improvements that were part of the existing level of service at the time of the last impact fee calculation, or that was not used to finance fire or police protection system improvements, or the debt service for any portion of the past general obligation bond or revenue bond that was used to finance park improvements.

#### **IX. Refunds.**

(1) All funds collected by the impact fee shall be spent on projects which are initiated within three years of the collection of such fees as provided in Section VIII, paragraph 3 above. Any monies in the impact fee fund that have not been spent within seven (7) years after the date on which such fee was paid shall be returned to the current owners with interest since the date of payment. These payments shall be made to the owners at the time that the refund is issued regardless of the ownership at the time that the impact fee was calculated and collected.

(a) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property within thirty (30) days of the date the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(b) The refund shall be made on a pro rata basis, and shall be paid in full within ninety (90) days of the date upon which the refund becomes due.

(2) A refund shall be available to the applicant if, after obtaining the zoning certificate and paying the impact fee, the applicant determines not to build, construct or create the Impact Generating Development, and has not commenced work or caused improvements thereon.

## X. Reimbursements.

(1) Credit for reimbursements from impact fees collected by the Township shall be provided for contributions toward the cost of major roadway system improvements.

(a) Approved credits shall generally become effective when the improvements have been completed and have been accepted by the Township.

(b) No credit will be applied to the road impact fee for dedication of right-of-way, since no right-of-way costs were included in the calculation of the road impact fee. No credit will be applied to the road impact fee for improvements to the major roadway system that primarily serve traffic generated by the applicant's project, such as acceleration/deceleration lanes into and out of the project.

(2) In order to receive credit for system improvements, the developer shall submit complete engineering drawings, specifications, and construction cost estimates to the impact fee administrator. The impact fee administrator shall determine the amount of credit due based on the information submitted, or where such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the impact fee administrator.

(3) To qualify for an impact fee reimbursement credit, the developer must enter into an agreement with the Township. At a minimum, the developer agreement shall specify the amount of the credit, and within how many years the developer will be reimbursed from impact fees collected by the Township, assuming adequate funds are available for such repayment.

(4) The Township will allocate a maximum of 75 percent of annual impact fees collected to reimburse developers for eligible improvement credits. If the amount allocated for reimbursements is not sufficient to make all payments due to developers for that year, each developer will receive a pro rata share of the amount owed, and the unpaid amount will be added to the amount owed for the following year. If less than 75 percent of annual impact fee collections is required for reimbursements in any given year, the remainder may be used for public project expenditures.

(5) Credits provided pursuant to this resolution shall be valid from the effective date of such credits until ten (10) years after such date. The effective date of the credit shall be documented as follows: The date the Development Agreement required in Section X (3) is executed.

(6) Developers may obtain impact fee offsets for system improvements completed prior to the effective date of this resolution. Application for such offsets must be made, on forms provided by the Township, within one (1) year after the effective date of this resolution. In the event that the subdivision for which the offsets are claimed is partially completed, the amount of the offsets shall be reduced by the amount of the impact fees that would have been charged for the completed portion of the subdivision had this resolution been in effect. In the event that the subdivision has been fully completed, no offsets shall be issued. If some offsets are warranted, the impact fees otherwise due for zoning certificates issued within the subdivision shall be waived or reduced until the amount of the offset for the subdivision has been exhausted. In no case shall any such offsets be transferable to zoning certificates issued outside the subdivision for which the system improvement was made.

#### **XI. Miscellaneous Provisions.**

(1) Nothing in this resolution shall restrict the Township from requiring the construction of reasonable project improvements required to serve the development project, whether or not such improvements are of a type for which credits are available under subsection X, Reimbursements.

(2) The impact fee administrator shall maintain accurate records of the impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the Hamilton Township Board of Trustees deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice.

(3) Annually, the impact fee administrator shall present to the Hamilton Township Board of Trustees a proposed capital improvements program that shall assign monies from each impact fee fund to specific projects and related expenses for eligible improvements of the type for which the fees in that fund were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended pursuant to subsection IX, Refunds, or subsection X, Reimbursements, shall be retained in the same impact fee fund until the next fiscal year.

(4) If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated.

(a) Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such overpayment.

(b) Any amounts underpaid by the applicant shall be paid to the impact fee administrator within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such underpayment.


(c) In the case of an underpayment to the impact fee administrator, the Township shall not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the Township are not paid within such thirty (30) day period, the Township may also rescind any permits issued in reliance on the previous payment of such impact fee.

(5) The impact fees and the administrative procedures established by this resolution shall be reviewed by the Hamilton Township Board of Trustees within three (3) years of the effective date of this resolution, and then at least every five (5) years thereafter.

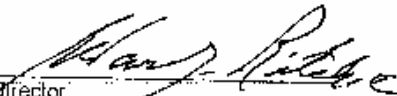
#### **XII. Appeals.**

Any determination made by the impact fee administrator charged with the administration of any part of this resolution may be appealed to the Township Board of Zoning Appeals within thirty (30) days from the date of the decision appealed. In the event that the determination of the Board of

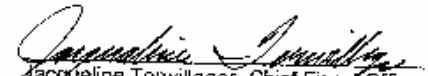
Witness my signature this 2<sup>nd</sup> day of May, 2007.

  
Jacqueline Terwilliger, Chief Fiscal Officer

Approved as to form:

  
Law Director

This Resolution was published by summary in the Western Star and Pulse Journal newspapers on the following dates: May 10, 2007, May 17, 2007.

  
Jacqueline Terwilliger, Chief Fiscal Officer

Zoning Appeals is questioned or challenged by either the developer or the impact fee administrator, the right to appeal to the judicial system shall be governed by Revised Code Section 2506.

**XIII. Violation.**

Furnishing false information on any matter relating to the administration of this resolution, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this resolution.

**XIV. Severability.**

If any section or component of this Resolution is held to be invalid by the final decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining sections and components of this Resolution. The Hamilton Township Board of Trustees declares that it would have adopted this Resolution and each section and component thereof despite the fact that one or more sections or components would be declared invalid.

Read on the following dates: April 18, 2007; May 2, 2007.

Mr./Ms. Ehling moved adoption of the foregoing Amended Resolution, being seconded by Mr./Ms. Murray. Upon call of the roll, the following vote resulted:

Mr. Bishop – Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Ms. Ehling – Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Mr. Munoz – Aye	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>

The original Resolution was published by summary on the following dates: March 29, 2007 and April 5, 2007 in the Western Star and Pulse Journal newspapers.

This Amended Resolution adopted this 2nd day of May, 2007 to take effect on May 3, 2007.

  
Jacqueline Terwillegger, Chief Fiscal Officer

I, Jacqueline Terwillegger, Chief Fiscal Officer of Hamilton Township, Warren County, Ohio, hereby certify that the foregoing is taken and copied from the record of the proceedings of said Township Trustees of Hamilton Township, and that it is a true and accurate representation thereof.

# The Western Star

## AFFIDAVIT OF PUBLICATION

P.O. Box 643080  
Cincinnati, OH 45264-3080  
937-225-2107

HAMILTON TOWNSHIP TRUSTEES  
P.O. BOX 699  
MAINEVILLE, OH 45039

STATE OF OHIO

### HAMILTON TOWNSHIP TRUSTEES

On May 2, 2007, the Board of Trustees of Hamilton Township, Warren County, Ohio, adopted Amended Resolution 2007-0418 which in summary reads: Amended Resolution Implementing Impact Fees within the Unincorporated Areas of Hamilton Township, Ohio for Roads, Fire and Police, and Parks. A copy of the complete text of the Amended Resolution may be obtained by contacting the Township's Fiscal Officer, Jacqueline Terwilliger, at 513-683-8520 or at the Township Administrative Offices located at 7780 State Route 48, Maineville, Ohio 45039.

May 10, 17, 2007

Signed Windy Ruggles

Sworn or affirmed to, and subscribed before me, this 5/17/2007. In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Notary Public

Barbara J. Smith

BARBARA J. SMITH  
Notary Public, State of Ohio  
My Commission Expires 02-16-09



Before me, the undersigned, a Notary public in and for said County, personally came W. Ruggles who being first duly sworn says he/she is the Legal Advertising Agent of the The Western Star, which he/she says is a newspaper of general circulation in Montgomery, Clark, Warren, Butler, Clinton, Greene, Preble, Miami, Darke, Mercer, Shelby, Fayette, Logan, Hamilton, Clermont, Auglaize, and Champaign Counties, and State of Ohio, and he/she further says that the Legal Advertisement, a copy of which is hereunto attached, has been published in the said The Western Star 25 lines, 2 Time(s), last day of publication being 5/17/2007, and he/she further says that the bona fide daily paid circulation of the said The Western Star was over () at the time the said advertisement was published, and that the price charged for same does not exceed the rates charged on annual contract for the like amount of space to other advertisers in the general display advertising columns.

Invoice No.	9095054
Ad Cost	\$102.50
Paid	\$0.00
Due	\$102.50

# The Western Star

## AFFIDAVIT OF PUBLICATION

P.O. Box 643080  
Cincinnati, OH 45264-3080  
937-225-2107

HAMILTON TOWNSHIP TRUSTEES  
P.O. BOX 699  
MAINEVILLE, OH 45039

STATE OF OHIO

### HAMILTON TOWNSHIP PLANNING & ZONING DE- PARTMENT

The Hamilton Township Board of Trustees will conduct a Public Hearing on April 11, 2007, at 12:00pm, at the Hamilton Township Administration Building, 7726 South State Route 48, Maineville, Ohio 45039, to consider ADOPTION of a RESOLUTION IMPLEMENTING IMPACT FEES within the unincorporated areas of Hamilton Township, Ohio for Roads, Fire and Police, and Parks. The Board of Trustees may conduct the FIRST READING of such RESOLUTION at its regularly scheduled meeting on April 11, 2007, at 12:30 p.m. also at the Hamilton Township Administration Building. The Public is invited to attend and speak in favor of or against the PROPOSED RESOLUTION. Copies of the proposed RESOLUTION may be obtained by contacting the Township Fiscal Officer, Jacqueline Terwilliger at the above address or by telephone 513-683-5870.  
March 29, 2007  
April 5, 2007

Before me, the undersigned, a Notary public in and for said County, personally came W. Ruggles who being first duly sworn says he/she is the Legal Advertising Agent of the The Western Star, which he/she says is a newspaper of general circulation in Montgomery, Clark, Warren, Butler, Clinton, Greene, Preble, Miami, Darke, Mercer, Shelby, Fayette, Logan, Hamilton, Clermont, Auglaize and Champaign Counties, and State of Ohio, and he/she further says that the Legal Advertisement, a copy of which is hereunto attached, has been published in the said The Western Star 36 Lines, 2 Time(s) last day of publication being 4/5/2007, and he/she further says that the bona fide daily paid circulation of the said The Western Star was over ( ) at the time the said advertisement was published, and that the price charged for same does not exceed the rates charged on annual contract for the like amount of space to other advertisers in the general display advertising columns.

Signed Wendy Ruggles

Sworn or affirmed to, and subscribed before me,  
this 3/29/2007. In Testimony Whereof, I have  
hereunto set my hand and affixed my official  
seal the day and year aforesaid

Notary Public

Barbara J. Smith  
BARBARA J. SMITH

Notary Public, State of Ohio  
My Commission Expires 02-18-08



Invoice No.	8930763
Ad Cost	\$147.60
Paid	00.00
Due	\$147.60