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New Development Privilege Tax

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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New Development Privilege Tax

Private Acts of 1991 Chapter 118

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

WHEREAS, General Motors Corporation has constructed the SATURN automotive assembly plant in an unincorporated area of Maury County; and

WHEREAS, the investment in said plant is anticipated to be approximately \$3.5 billion when the plant is complete; and

WHEREAS, pursuant to a Payment In Lieu Of Tax (PILOT) Agreement entered into between General Motors and Maury County, the SATURN plant will make payments in lieu of property tax in an amount less than the property tax payments that would be required under the present County property tax rate of \$2.68 per \$100 of assessed valuation; and

WHEREAS, the SATURN plant is anticipated to stimulate other commercial, office, industrial and warehouse development in Maury County in the vicinity of the SATURN plant as well as in neighboring counties; and

WHEREAS, the projected non-residential development and the availability of jobs is anticipated to stimulate a significant demand for new dwelling units; and WHEREAS, in anticipation of and for the purpose of more accurately identifying the impacts of the SATURN plant and associated development on Maury County, the County retained a Consultant Team (1) to project population and employment growth in Maury County to the Year 2000 and to convert the projected population and employment forecasts into land use demand; (2) to identify the County responsibility for the provision of the additional capital facilities and improvements that would be needed as a result of such growth and to estimate the cost thereof; (3) to undertake a fiscal impact analysis to project County revenues and necessary County expenditures, given the projected growth, to the Year 2000 and to determine, at current tax and fee rates, whether revenues will be adequate to meet the projected needs; and (4) if revenues are inadequate, to explore alternative revenue sources that may now or in the future be available to increase County revenues to fund the necessary public facilities at current service levels; and

WHEREAS, the results of the Consultant Team Report, undertaken with the assistance and cooperation of the County staff and officials, show that:

(1) County population will be 75,400 persons in the Year 2000, an increase of 50% from 1980 to 2000; employment will reach 39,100 in the Year 2000, an increase of 63% from 1980; there will be a demand for approximately 12,000 additional dwelling units between 1985 and 2000; and new residential and non-residential development will consume an additional 5,000 acres of land in Maury County;

(2) Projected growth and land use development will cause a demand for County provided capital facilities (schools, jail, parks, County government facilities, etc.) in the amount of approximately \$26 to \$28 million over the next 15 years;

(3) The cost of and additional demand for public facilities as well as increased operating expenses, staff and maintenance costs will create a budget deficit which is projected to range from \$1 million to more than \$4 million per year through the Year 2000.

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

WHEREAS, Maury County is committed to both present and future County residents to maintaining a level of public facilities and services commensurate with that presently provided; and

WHEREAS, Maury County is prepared to impose a fair, equitable and reasonable share of the costs of providing the necessary public facilities and services on existing residents of the County; and

WHEREAS, the County's present population, employment base, tax base and budget cannot alone support the additional revenues needed to supply facilities to service new growth without a 50% increase in the property tax rate on existing development; and

WHEREAS, the introduction of the SATURN plant in Maury County represents both an extraordinary economic opportunity for the State of Tennessee as well as a potential economic burden on the existing

residents of Maury County; and

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

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

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

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

SECTION 1. This Act shall be known and cited as the Maury County Adequate Facilities Tax.

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

(a) "Board of Adjustments and Appeals" is a three (3) member board who shall have four (4) year terms. Members shall be recommended by the Administrative Committee of the County Commission and confirmed by the County Commission

As amended by: Private Acts of 2000, Chapter 123

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

(c) "Building Permit" means a permit for development issued in Maury County, whether by the County or by any city therein.

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

(e) "Certificate of Occupancy" means a license for occupancy of a building or structure issued in Maury County, whether by the County or by any city therein.

(f) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or nonresidential use.

(g) "Dwelling Unit" means a room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupant, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(h) "Floor Area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the room line of any building or portions thereof without walls, but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(i) "Governing Body" means the County commission of Maury County, Tennessee.

(j) "Nonresidential" means the development of any property for any use other than residential use, except as may be exempted by this Act.

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

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

(m) "Public Buildings" means a building owned by the State of Tennessee or any agency thereof, a

political subdivision of the State of Tennessee, including but necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

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

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

(p) "Subdivision Regulations" means the regulations adopted by the Maury County Regional Planning Commission pursuant to state statutory authorization on December 19, 1985, as amended, by which the County regulates the subdivision of land.

(q) "Zoning Resolution" means the resolution adopted by the governing body pursuant to state statutory authorization on April 21, 1986, as amended, by which the County regulates the zoning, use and development of property.

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

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

SECTION 5. The governing body shall impose the tax authorized herein by resolution after adopting a capital improvements program indicating the need for the cost of public facilities anticipated to be funded, in part, by this tax and after finding that the need for such public facilities is reasonably related to new development in the County. The resolution of the governing body imposing this tax shall state the rate of tax on new residential and nonresidential development. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this Act.

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

- (a) Public Buildings.
- (b) Places of worship.
- (c) Barns or outbuildings used for agricultural purposes.
- (d) Replacement of buildings taken by eminent domain by any public body; replacement structures for previously existing buildings destroyed by fire, or other disaster; or replacement on the same site of any building which either has had a privilege tax paid upon it, or has been utilized as a residence for three years immediately preceding the date of application for a building permit.
- (e) Additional to an existing single-family dwelling which was originally completed at least one year prior to such addition.
- (f) A structure owned by a non-profit corporation which is a qualified 501(c) corporation under the Internal Revenue Code.
- (g) Permanent residential structures replacing mobile homes where the mobile home is removed within thirty days of the issuance of the certificate of occupancy for the permanent residential structure, provided that the permanent structure is a residence for the owner and occupant of the mobile home and that owner and occupant has resided on the property for a period of not less than three years.
- (h) Buildings which either have previously had a privilege tax paid upon them, or which have been continuously occupied for three years immediately preceding the date of application for a building permit, and which are moved from one site within the County to another site within the County, provided that no new building replaces the building being moved. If a building, which has been continuously occupied for three consecutive years immediately prior to the date of application for a building permit, is move to another site within the County and a new building is placed on the originating site, then the moved building will pay the privilege tax at its new site.

SECTION 7. For the exercise of the privilege described herein, Maury County may impose a tax on new development not to exceed fifty cents (\$.50) per gross square foot of new residential development and

thirty cents (\$.30) per gross square foot of new nonresidential development. The County may develop a tax rate schedule by which residential and nonresidential uses are classified by type for the purpose of imposition of the tax authorized herein.

SECTION 8. The tax established in this Act shall be due and collected at the time of application for a building permit for development as herein defined or, if a building permit is not required, at the time of application for a certificate of occupancy to the County or city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy. No building permit or certificate of occupancy shall be issued until the tax is paid. If the tax is collected by the County, the County director of community development or other responsible official shall receive payment in full in cash or other negotiable instrument as specified by resolution of the County. Before issuance of the building permit or certificate of occupancy, any city shall receive a receipt from the County director of community development indicating full payment of the tax by the applicant. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in Maury County unless the tax has been paid in full to the County.

The tax due herein is declared to be a lien against the real property upon which the development has occurred until paid unless the development occurs on real property leased at the time the tax is due and shall be superior to all other liens on such property except for property tax liens. Interest of one percent (1%) per month, and a penalty of one-half percent ($\frac{1}{2}\%$) per month or fraction thereof shall be added to the tax due if not paid when first due, unless the taxpayer successfully contests the applicability of such tax by appeal as provided in this act. Notice of such lien may be, but is not required to be recorded in the office of the register of deeds. Such lien may be enforced by action instituted in the Chancery County of Maury County for sale of the real property to enforce this lien.

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

SECTION 10. Appeals. Any person aggrieved by the decision of the County building official or other responsible official concerning any aspect of this act may obtain review of the official's decision in the following manner:

(a) By payment of the disputed amount to Maury County and by notifying the official that the payment is made under protest; and

(b) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment. Appeals shall be heard by the Maury County Board of Adjustment and Appeals. Hearing shall be scheduled within forth-five (45) days of the written request for appeal.

The board of adjustment and appeals shall render a decision on all hearings within thirty (30) days of the hearing date, unless the hearing is continued from time to time by a majority vote of the board for further information.

The board of adjustment and appeals shall act as a quasi-judicial body whose purpose is to determine the intent of the act, its applicability to the appellant, and to rule upon the interpretation of the official. The board will not be bound by formal rules of evidence applicable to the various courts of the state.

Hearings before the board shall proceed as follows:

(1) The building officials shall explain his ruling and the reasons for his ruling.

(2) The appellant shall explain his reasons for protesting the ruling.

(3) The board may request further information from any County official, including, but not limited to the County executive, County commissioners or committee members, the County attorney, or the County planning staff. The board will not have the power to subpoena.

(4) The board will deliberate and render a decision by a majority vote. Decisions will be reduced to writing and copies shall be sent to all parties and shall become a part of the minutes of the board. Decisions of the board of adjustment and appeals shall be final, except that either the building official, or the person aggrieved may seek review of the board's actions by certiorari and supersedeas to the Chancery Court of Maury County, Tennessee, provided that an application to the Court is made within sixty (60) days of the written decision of the board.

SECTION 11. The authority to impose this privilege tax on new development in Maury County is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by the private or public acts of the State of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall

not be deemed to constitute double taxation.

SECTION 12. The provisions of this Act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Maury County. This Act shall be deemed to create an additional and alternative method for Maury County to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the County.

SECTION 13. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 14. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Maury County before October 1, 1991. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

SECTION 15. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 14.

Passed: May 30, 1991.

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