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Adequate Facilities 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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Adequate Facilities Tax

Private Acts of 2000 Chapter 158

SECTION 1. This act shall be known and cited as the Dickson County Adequate Facilities Tax.

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

- (1) "Board of Zoning Appeals" means the board established in Dickson County pursuant to Tennessee Code Annotated, Section 13-7-106.
- (2) "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, but excludes those buildings specified in Section 6 below.
- (3) "Building permit" means a permit for development issued in Dickson County, whether by the county or by any city therein.
- (4) "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. (5) "Certificate of occupancy" means a license for occupancy of a building or structure issued in Dickson County, whether by the county or by any city therein.
- (6) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to, or increases the floor area of a residential or non-residential use.
- (7) "Dwelling unit" means a room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.
- (8)(A) "Floor area" for non-residential development means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings, or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building, or portions thereof without walls, but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, services, or production areas.
 - (B) "Floor area" for residential development means the total of the gross horizontal area of all floors, including basements, cellars, or attics which is heated and/or air-conditioned living space, or designed to be finished into heated and/or air-conditioned living space at a future date.
- (9) "General plan" means the official statement of the planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in Tennessee Code Annotated, Sections 13-3-301, 13-3-302, and 13-4-302. For the purpose of the act only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.
- (10) "Governing body" means the County Commission of Dickson County, Tennessee.
- (11) "Major Street or Road Plan" means the plan adopted by the planning commission, pursuant to Tennessee Code Annotated, Sections 13-3-402 and 13-4-302, showing, among other things, the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, excavating, abandonment or change of use of existing public ways.
- (12) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this act.
- (13) "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.
- (14) "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.

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

(16) "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.

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

(18) "Subdivision regulations" means the regulations adopted by the Dickson County regional planning commission pursuant to state statutory authorization in October, 1969, as amended, by which the county regulates the subdivision of land.

(19) "Zoning resolution" means the resolution adopted by the governing body pursuant to state statutory authorization on October 27, 1988, as amended;

SECTION 3. It is the intent and purpose of this act to authorize Dickson County to impose a tax on new development in the county, which requires a building permit, payable at the time of issuance of a building permit or as set out hereinafter, so as to ensure and require that persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded facilities made necessary by such development.

As amended by: Private Acts of 2002, Chapter 162

SECTION 4. Engaging in the act of development within Dickson County, except as provided in Section 6 herein, is declared to be a privilege upon which Dickson County may, by resolution of the governing body, levy a tax as 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 non-residential development, and shall require a two-thirds (2/3) vote of the county legislative body in favor of the resolution to set the tax rate or to thereafter change the tax rate. 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:

- (1) Public buildings.
- (2) Places of worship.
- (3) Barns or outbuildings used for agricultural purposes.
- (4) Replacement structures for previously existing structures destroyed by fire or other disaster.

SECTION 7. For the exercise of the privilege described herein. Dickson County may impose a tax on new development at a rate set by the governing body per gross square feet of new residential and non-residential development.

SECTION 8. The tax established in this act shall be collected in the following manner:

- (1) If a building permit is issued by the county, the county building inspector's office shall receive payment in full at the time of application for a building permit for development as herein defined;
- (2) If the building permit is issued by a city, the city shall, before issuance of a building permit, require evidence of a valid certificate executed by the county building inspector's office that the full amount of tax due the county has been paid in full; or
- (3) If a city does not require a building permit for development within the city, the person or entity desiring to engage in any kind of development within that city shall, before beginning development, pay to the county building inspector's office the full amount of the tax due and obtain a receipt for payment evidencing that the tax has been paid in full.

No building permit for development as herein defined shall be issued in Dickson County, nor shall any person be permitted to begin development unless the tax has been paid in full and the person has been

issued a building permit, or, if any city does not require a building permit, the person has a receipt from the county building inspector's office evidencing payment of this tax in full. The issuance of a building permit by any city official, without a certificate from the county that the tax has been paid, shall render the city liable to the county for the sum or sums that would have been collected by the county, had a certificate of tax been required by the city.

As amended by: Private Acts of 2002, Chapter 162

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

SECTION 10. The authority to impose this privilege tax on new development in Dickson 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 11. (a) 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:

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

(2) 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 Dickson County board of zoning appeals. Hearing shall be scheduled within forty-five (45) days of the written request for appeal.

(b) The board of zoning 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.

(c) The board of zoning 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.

(d) Hearings before the board shall proceed as follows:

(1) The building official 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 of 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 zoning 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 Dickson County, Tennessee, provided that an application to the court is made within sixty (60) days of the written decision of the board.

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 Dickson County. This act shall be deemed to create an additional and alternative method for Dickson County to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the county.

(A) The county shall have a lien on any real property for the tax imposed by this act, if the tax has not been paid as required by this act, prior to the beginning of development. Notwithstanding any other provisions of this act, the county may seek and shall be entitled to injunctive relief to stop and enjoin further development of the property if the tax required by this act has not been paid in full. In addition the county shall have and retain such other rights that it may have at law for the collection of such taxes due hereunder.

As amended by: Private Acts of 2002, Chapter 162.

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

SECTION 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Legislative Body of Dickson County. Its approval or non-approval 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 law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 14.

Passed: June 9, 2000.

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