

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 11-27-07-01 AND THE CODE OF ORDINANCES OF CAMDEN COUNTY, MISSOURI, TO ESTABLISH A ROAD DEVELOPMENT CHARGE.

WHEREAS, Camden County, Missouri ("County") has assessed the existing condition of its road maintenance systems, studied necessary system improvements for existing and future road development, and explored mechanisms for financing such improvements; and

WHEREAS, the Commission of the County has determined that the current mechanisms and fees for financing improvements to the road maintenance system in order to accommodate projected future road development within the Camden County Planning and Zoning District are insufficient; and

WHEREAS, the Commission has determined that imposition of a road development charge within the Camden County Planning and Zoning District is an equitable method of financing improvements necessary for road maintenance and development;

WHEREAS, said public hearing was held before the Commission on 5/31/18, and all interested parties were provided with an opportunity to comment and provide input on the proposed rates for the road development charge; and

WHEREAS, the Commission desires to amend the Code of Ordinances of the County to provide for the imposition of a road development charge.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF CAMDEN COUNTY, MISSOURI, as follows:

Section 1. That the Code of Ordinances of Camden County, Missouri, is amended to add the establishment of a road development charge as follows:

A. FINDINGS. The Commission of Camden County, Missouri (hereinafter "Commission") hereby finds and declares that:

1. Camden County, Missouri (hereinafter "County") has experienced rapid development. The basic network of roads has experienced a gradual increase in length through the development of areas not previously served by County roads. As these roads are extended into previously unserved

areas by developers, and if they are built to County standards, they are subsequently turned over to and accepted by the County for maintenance.

2. New growth results in new construction and development, which use these existing roadways, placing an increased demand upon the existing roadways. This increased demand of construction traffic (i.e. dump trucks, excavators, material suppliers and concrete trucks) traveling to and from the project site has placed stress on the existing roadways causing a deterioration of the asphalt surfacing or a failure in the road base.

3. Currently, the County requires the homeowner or developer to put up a bond to cover any repairs caused by the additional traffic. This system has not been effective as it has been difficult to determine the amount of damage and the proper assessment for that damage.

4. The Camden County Missouri Road Study, commissioned by the County and prepared by Krehbiel Engineering, Inc., identifies the cost impact of increased transportation and roadway usage in the County.

5. The County has examined the additional road maintenance needed to serve new development and has segregated projects and costs attributable to existing development and the costs attributable to new development.

6. The County assumes responsibility for and is committed to providing the road maintenance and repair necessary to serve existing development through funding mechanisms other than road development charges.

7. To the extent that new construction and development will place additional demand upon existing roads, that demand should be met by shifting the responsibility for financing such maintenance and repair from the general public to the construction and development creating the demand.

8. The imposition of a road development charge will help ensure that new construction and development bear a proportionate share of the cost of the maintenance and repair necessary to accommodate existing and new roadways.

9. The maintenance and repairs of roadways necessary to accommodate new construction and development have a "rational nexus" to and provide benefit to new constructions and development when they use the roadways because the additional road maintenance will offset the increased transportation and roadway usage and the increased weight of the vehicles associated with construction traffic.

10. The Commission has considered the matter of financing road maintenance and repair, the need for which is necessitated by new construction and development. The Commission hereby finds and declares that a road development charge imposed upon new construction and development to finance road maintenance and repair, the need for which is reasonably related to new construction and development, furthers the public health, safety and welfare of Camden County. Therefore, the Commission deems it advisable to adopt the provisions as hereinafter set forth.

B. INTENT.

1. It is the intent of this section to impose a road development charge on new construction and/or development within Camden County to recoup or offset a proportionate share of public capital maintenance costs required to accommodate such development with necessary roadway facilities.

2. It is the intent of this section that establishment of this system of calculating and imposing road development charges will apportion the costs of road maintenance to the new construction and/or development within Camden County and that the fees paid with respect to each new construction and/or development are roughly proportionate, both in nature and extent, to the demand that such new construction and/or development will place on roadways.

3. It is the intent of this section that the road development charges established hereby be assessed on a per unit or per square foot basis.

4. This section shall not be construed to authorize imposition of a road development charge attributable to existing development.

5. It is the intent of this section to establish a road development user fee in the form of a road development charge, imposed upon new construction and/or development within Camden County, and not to levy a "tax" or "fee" as such term is used in Section X, Section 22 of the Missouri Constitution.

6. It is the intent of this section to establish a user fee in the form of a road development charge, as "user fees" are interpreted in Missouri case law, that will be used to pay for the cost of providing road maintenance, the demand for which is generated by new construction and/or development within Camden County. The amount of the road development charge to be paid by each new construction and/or development. This section is specifically designed so as not to establish a "tax" or "fee" as such terms are used in Section X, Section 22 of the Missouri Constitution, but rather as a mechanism to equitably shift the burden of the cost of such road

maintenance from the existing general public (which has already paid its fair share of the cost of the existing road maintenance and which will continue to pay for the cost of improvements to serve existing roadways, maintenance, and repair, through funds other than those derived from the system of user's fees) to new construction and/or development that will generate the need for road maintenance that will be maintained with monies derived from this user fee in the form of a road development charge are to be used to offset the cost of providing road maintenance and the system is designed to ensure that such 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 road development charge: (1) is paid upon the approval of designated development applications, not periodically; (2) is required to be expended for the provision of road maintenance that directly benefit the construction and/or development which has generated the need for such maintenance and repair within a reasonable period of time from the date such fee is paid; (3) is directly proportional in amount to the road maintenance and repair provided; and (4) is for a service that has not been historically provided exclusively by monies derived from taxes.

C. AUTHORITY. In the creation of the road development charge, the County is exercising its local authority, including but not limited to its police powers pursuant to Chapter 64 of the Revised Statutes of Missouri, as amended. The aforementioned provision authorizes the County to provide for the health, safety and general welfare of the County.

D. IMPOSITION OF ROAD DEVELOPMENT CHARGE.

1. No application for a Planning and Zoning ("P&Z") permit or approval shall be approved, unless the applicant therefore, if so required, has paid the applicable road development charge imposed by this section. Any application for a P&Z permit or approval approved by the County without payment by the applicant and collection by the Planning and Zoning Commission of the applicable road development charge as required by this section shall be null and void.

2. This section shall be applicable to applications for P&Z permits or approvals due to an increase in stress on the roadways. An increase in stress on the roadways shall mean increased transportation and roadway usage and increased weight of the vehicles associated with construction traffic and therefore creating a correspondingly higher need for maintenance and/or repair of the roadways.

3. Road maintenance and repair shall otherwise comply with all applicable ordinances, provisions of the Code of Ordinances, and other laws and regulations of the County and State of Missouri.

E. APPLICABILITY AND EXEMPTIONS.

1. This ordinance shall be applicable to all applications for P&Z permits or approvals within the Planning and Zoning District except as hereinafter set forth in subsection 2; provided however, the road development charge for construction and/or development outside of the County Planning and Zoning District limits shall be determined on a case by case basis after due consideration of the principles and guidelines set forth in this ordinance and future amendments to this ordinance. To assist in the distribution of these funds in an equitable manner, the Planning and Zoning District has been divided into Road Sub-District Service Areas (hereinafter "Areas"). A description of these Areas is found in the section titled "Road Sub-District Service Areas" within the Camden County Missouri Road Study.

2. This ordinance shall not be applicable to applications for P&Z permits or approvals within the area encompassed by Horseshoe Bend Special Road District. This is a separate entity that assesses its property owners through a special road district tax and provides construction, repair and maintenance services within the Horseshoe Bend Special Road District.

3. That the following types of construction and improvements shall be exempt from the provisions of the within Ordinance:

a. Garages, additions, manufactured homes, pools, decks/porches, pole/post-framed buildings having a concrete floor, and portable buildings that measure less than 400 square feet of area of the outside dimensions of each level (when applicable).

b. Pole-framed buildings having a gravel floor that measure less than 800 square feet of area of the outside dimensions of each level (when applicable).

c. Retaining walls that measure less than 400 square feet of the exposed surface face of the wall measured in the vertical place.

d. Properties that do not have access to a paved roadway maintained by the Camden County Road & Bridge Department. A roadway shall be considered paved when any of the following exists: asphalt pavement, concrete, chip seal pavement, cold-in-place pavement, bricks, concrete blocks/pavers, etc.

F. CALCULATION OF THE ROAD DEVELOPMENT CHARGE.

1. For Low Density Residential (R-1), Agricultural (A-1), Agricultural-Residential (A-R), Office/Low Impact Commercial (B-1), Parks and Reserves (P-1) and Industrial (I-1) zoned property, structures including but not limited to garages, additions, manufactured homes, pools, concrete decks/porches, pole/post-framed buildings with a concrete floor, and new structures, the road development charge shall be \$0.25 per square foot of the outside horizontal dimensions of each level (when applicable) of the proposed structure. Any of the aforementioned structures that measure less than 400 square feet shall be exempt from the road development charge.

2. For Medium Density Residential (R-2), Commercial Parks (P-2) and General Commercial (B-2) zoned property, structures including but not limited to garages, additions, manufactured homes, pools, concrete decks/porches, pole/post-framed buildings with a concrete floor, and new structures, the road development charge shall be \$0.30 per square foot of the outside horizontal dimensions of each level (when applicable) of the proposed structure. Any of the aforementioned structures that measure less than 400 square feet shall be exempt from the road development charge.

3. For High Density Residential (R-3) and High Impact Commercial (B-3) zoned property, structures including but not limited to garages, additions, manufactured homes, pools, concrete decks/porches, pole/post-framed buildings with a concrete floor, and new structures, the road development charge shall be \$0.35 per square foot of the outside horizontal dimensions of each level (when applicable) of the proposed structure. Any of the aforementioned structures that measure less than 400 square feet shall be exempt from the road development charge.

4. For manufactured home park (R-4) zoned property, structures including but not limited to garages, additions, manufactured homes, pools, concrete decks/porches, pole/post-framed buildings with a concrete floor, and new structures, the road development charge shall be \$0.20 per square foot of the outside horizontal dimensions of each level (when applicable) of the proposed structure. Any of the aforementioned structures that measure less than 400 square feet shall be exempt from the road development charge.

5. For pole/post-framed buildings having a gravel floor and marina dry storage in any zoning districts, the road development charge shall be \$0.13 per square foot of the outside horizontal dimensions of each level (when applicable) of the proposed structure. Pole/framed-buildings having gravel floor that measure less than 800 square feet, shall be exempt from the road development charge.

6. For Retaining Walls, regardless of material (concrete, block, rock, etc.) in any zoning district, the road development charge shall be \$0.16 per

square foot of the exposed surface face of the wall measured in the vertical plane to the nearest square foot. Height will be measured from the subgrade elevation to top of wall multiplied by the length of the wall for each section of wall with differing height. Retaining walls that measure less than 400 square feet shall be exempt from the road development charge.

7. For Decks/Porches constructed with lumber on pier footings, in any zoning district, the road development charge shall be \$0.12 per square foot of the outside horizontal dimensions of each level (when applicable) of the proposed structure. Decks/Porches that are installed on any foundation larger than a standard pier footing shall be calculated as a structure in the appropriate zoning district. Decks/Porches that measure less than 400 square feet shall be exempt from the road development charge.

8. All road development charges are subject to amendment of this Ordinance.

G. ADMINISTRATION OF ROAD DEVELOPMENT CHARGES.

1. *Collection of road development charges.* The County, prior to approving any application for construction and/or development, shall collect road development charges calculated and imposed pursuant to this section.

2. *Transfer of funds to the Finance Department.* Road development charges shall be transferred from the collecting agency to the Finance Department for placement in the road development charge fund account, which has been established pursuant to subsection G.3. below.

3. *Road development charge fund account established.*

a. There is hereby established a separate "Road Development Charge Fund Account" for the County

b. Funds withdrawn from the fund account must be used solely in accordance with the provisions of subsection G.4. of this section.

c. Any funds not immediately necessary for expenditure shall be invested in interest-bearing accounts. All interest earned shall be retained in the fund account.

4. *Use of funds collected.* The funds collected by reason of this section shall be used exclusively for the purpose of road maintenance and/or repair projects or for financing directly, or as a pledge against bonds, revenue certificates and other obligations of indebtedness, the costs of

road maintenance and/or repair within the sub-district from which collected.

H. REFUNDS.

1. Upon application of the current property owner, the County shall refund the portion of any road development charge that has been on deposit for more than ten (10) years and that remains unexpended.

a. The current owner of the property must petition the County for the refund within six (6) months following the ten-year period. The time for filing a refund petition shall run from the date on which the road development charge was paid.

b. The petition must contain the following information:

1) A notarized sworn statement that the petitioner is the current owner of the property; and

2) A copy of the dated receipt issued for payment of the road development charge.

2. A road development charge collected pursuant to this section shall be considered expended if, within ten (10) years from the date of payment, the total expenditures for road maintenance and/or repair necessary to serve the roadways exceed the total fees collected for such roadways during such period.

3. If a refund is due pursuant to subsections H.1. and 2. of this section, the County shall determine the amount of the refund pro rata.

4. Within one (1) month from the date of receipt of a petition for the refund the County shall advise the petitioner of the status of the refund requests. If the petition for refund meets all of the requirements of subsections H.1., H.2., and H.3. of this section, the County shall issue the refund within two (2) months from the date of receipt of the petition for refund.

5. Refunds requested pursuant to the expiration of a P&Z permit or approval must be submitted within six (6) months of the date of expiration. Refund requests under this subsection are not required to submit petitions pursuant to subsection H.1. of this section; however, adequate proof of entitlement to the refund must be provided to the County.

I. ANNUAL REVIEW.

1. Beginning in calendar year 2008 and annually thereafter, the County Commissioner, with the assistance of the appropriate County departments, shall prepare a report on the subject of road development charges, which report shall include:

- a. Recommendations on amendments, if appropriate, to this section;
- b. Proposed changes to the road development charge calculation methodology;
- c. Proposed changes to the road development charge calculation variables;
- d. Proposed changes to the road development charge rates or schedules.

2. The County Commission, in preparing the annual report, shall obtain and review the following information:

- a. A statement from the County Treasurer summarizing road development charges collected and disbursed during the preceding year for road maintenance and/or repair projects;
- b. A statement from the County Road and Bridges Department summarizing road maintenance and/or repair projects initiated and completed during the preceding year;
- c. A statement from the County Planning Department summarizing the applications for service approved during the preceding year;
- d. A statement from the County Road and Bridges Department that the road maintenance and/or repair projects undertaken with road development charge funds are consistent with the adopted project list;
- e. A revision of the project list and road development charge calculation, as appropriate.

3. The report shall be presented to the County Commission.

4. Based on the annual report and other factors as the County Commission deems relevant and appropriate, the County Commission may amend this section.

5. The annual review shall be completed by the date of the second regularly scheduled meeting of the County Commission in the month of July of each year.

6. Nothing herein precludes the County Commission or limits its discretion to amend this section at such other times as may be deemed necessary.

J. APPEALS.

1. The applicant for a new P&Z permit or approval (construction and/or development) or anyone else that may be affected by the within Ordinance may appeal the following decisions to the County Commission: (a) the applicability of the road development charge to the construction and/or development; (b) the amount of the road development charge due; (c) the amount of a refund due, if any.

2. The burden of proof shall be on the appellant to demonstrate that (a) the road development charge is not applicable; (b) the amount of the fee does not reasonably reflect the applicant's pro rata share of the cost of road maintenance and/or repair required to serve the applicants construction and/or development; and/or (c) the amount of the refund was not calculated in accordance with the provisions of this section.

3. The applicant shall file a notice of appeal with the County Clerk within thirty (30) days following the determination of the applicability of the road development charge, the amount of the road development charge, or the amount of the refund due. An application for a P&Z permit or approval (service) may continue to 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 road development charge due.

4. Within ten (10) days of the notice of appeal, or by such date as shall be agreed upon in writing between the applicant and the County, the applicant shall submit to the County Commission studies, calculations and other documentation appropriate to the determination of a road development charge for new construction and/or development or the determination of a refund.

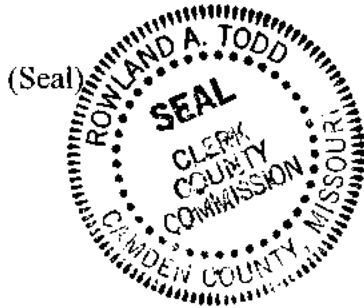
Section 2. That the provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

Section 3. That should any sentence, clause, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 5. That this Ordinance is to amend Ordinance No. 11-27-07-01.

PASSED by the Commission for Camden County, Missouri, this 3rd day of MAY, ~~2017~~ 2018



CAMDEN COUNTY, MISSOURI

By: [Signature]
Greg Hasty, Presiding Commissioner

By: [Signature]
Beverly Thomas, 1st District Commissioner

By: [Signature]
Don Williams, 2nd District Commissioner

Attest:

[Signature] 7/2/18
County Clerk

Approved as to Form:

[Signature]
Charles E. McElyea