THE EFFECTIVE DATE OF THIS ORDINANCE IS July 19, 2005

ORDINANCE NO. 05-19-380

RE: Revisions to Building Excise Tax Ordinance

PREAMBLE

By State law, § 2-7-131 of the Frederick County Code, Chapter 690 of the Laws of Maryland 2001, the County Commissioners of Frederick County are authorized to fix, impose and collect a building excise tax.

By Ordinance No. 01-22-296 effective February 4, 2002, the Board of County Commissioners imposed such a building excise tax.

The Board of County Commissioners desires to revise the Building Excise Tax Ordinance to create a tax credit for certain payments made to a municipality. These revisions will apply retroactively for buildings with permits issued on or after July 1, 2004. The revisions include adding a definition for Municipal Fee or Assessment to Section 1-8-72 and adding provisions to Sec. 1-8-78 to establish the tax credit for certain payments made to a municipality.

The County Commissioners held a duly advertised public hearing concerning this Ordinance on Tuesday, June 21, 2005. The public had an opportunity to comment on this Ordinance at this public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Sections 1-8-72 and 1-8-78 of the Frederick County Code (1979) are hereby amended to read as follows:

Add to **Sec. 1-8-72.**

MUNICIPAL FEE OR ASSESSMENT. A MUNICIPAL FEE OR ASSESSMENT INCLUDES A FEE, ASSESSMENT OR CHARGE IMPOSED BY AND PAID TO A MUNICIPALITY AND DEVOTED AND LIMITED BY LAW TO USE FOR CAPITAL PROJECTS FOR ADDITIONAL OR EXPANDED PUBLIC ROAD FACILITIES. A MUNICIPAL FEE OR ASSESSMENT DOES NOT INCLUDE A FEE, ASSESSMENT OR CHARGE TO BE USED TO CONSTRUCT INTERNAL ROADS, OR TO CONSTRUCT ACCESS RELATED IMPROVEMENTS SUCH AS ACCELERATION OR DECELERATION LANES WHICH TRADITIONALLY ARE CONSTRUCTED BY DEVELOPERS AS A CONDITION OF AN ENTRANCE PERMIT. NOTWITHSTANDING THE FOREGOING, A MUNICIPAL FEE OR ASSESSMENT SHALL INCLUDE ANY FEE, ASSESSMENT OR CHARGE IMPOSED AND COLLECTED FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS TO OR RECONSTRUCTING ANY ROAD OF COLLECTOR STATUS OR HIGHER, OR THE MUNICIPALITY'S EQUIVALENT OF A COUNTY COLLECTOR ROAD.

Add to **Sec. 1-8-78:**

(D) *MUNICIPAL FEE OR ASSESSMENT*

(1) A CREDIT AGAINST THE BUILDING EXCISE TAX DUE

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

UNDER THIS ARTICLE SHALL BE PROVIDED IF:

(a) A MUNICIPAL FEE OR ASSESSMENT IS REQUIRED TO BE PAID TO A MUNICIPALITY AS A CONDITION OF OBTAINING A BUILDING PERMIT;

(b) THE MUNICIPAL FEE OR ASSESSMENT IS CALCULATED ON THE SQUARE FOOTAGE OF THE CONSTRUCTION FOR WHICH THE BUILDING PERMIT IS SOUGHT; AND

(c) THE MUNICIPAL FEE OR ASSESSMENT IS SPECIFICALLY DEVOTED AND LIMITED BY LAW TO USE FOR CAPITAL PROJECTS FOR ADDITIONAL OR EXPANDED PUBLIC ROAD FACILITIES.

(2) (a) THE AMOUNT OF THIS CREDIT SHALL BE THE AMOUNT OF THE MUNICIPAL FEE OR ASSESSMENT PAID TO THE MUNICIPALITY.

(b) IF THE AMOUNT OF THE MUNICIPAL FEE OR ASSESSMENT PAID TO THE MUNICIPALITY IS LESS THAN THE AMOUNT OF THE BUILDING EXCISE TAX CALCULATED UNDER THIS ARTICLE, THEN THE APPLICANT FOR THE BUILDING PERMIT SHALL PAY THE AMOUNT OF THIS DIFFERENCE TO THE COUNTY AS BUILDING EXCISE TAX.

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(c) IF THE AMOUNT OF THE MUNICIPAL FEE OR ASSESSMENT PAID TO THE MUNICIPALITY IS GREATER THAN OR EQUAL TO THE AMOUNT OF THE BUILDING EXCISE TAX CALCULATED UNDER THIS ARTICLE, THEN NO BUILDING EXCISE TAX SHALL BE REQUIRED.

(3) FOR PURPOSES OF THIS SUBSECTION ONLY, A MUNICIPAL FEE OR ASSESSMENT SHALL BE DEEMED TO BE "SPECIFICALLY DEVOTED AND LIMITED BY LAW TO USE FOR CAPITAL PROJECTS FOR ADDITIONAL OR EXPANDED ROAD FACILITIES" IF THE MUNICIPALITY REQUIRES BY RESOLUTION, ORDINANCE, STATUTE OR CONTRACT THAT THE MUNICIPAL FEE OR ASSESSMENT IS TO BE USED FOR THE PURPOSE OF CONTRIBUTING TO OR HELPING THE MUNICIPALITY DEFRAY THE COST OF IMPROVEMENTS TO PUBLIC ROAD FACILITIES, INCLUDING FEES IMPOSED OR PAID UNDER AN AGREEMENT IN SATISFACTION OF THE PROPERTY OWNER'S OBLIGATIONS WITH REGARD TO SUCH MATTERS AS SPECIAL ASSESSMENT FEES, IMPACT FEES AND ADEQUATE PUBLIC FACILITIES REQUIREMENTS.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance

shall become effective on July 19, 2005 and shall apply to buildings for which permits were issued on or after July 1, 2004.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 19th day of July, 2005.

ATTEST:

Douglas D. Browning
County Manager

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

John L. Thompson, Jr., President

KLM
7/20/05

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
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