

ORDINANCE NO. 101806-DF

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PINAL COUNTY, ARIZONA, RELATING TO THE ADOPTION OF DEVELOPMENT FEES; AND ESTABLISHING THE PROCESS FOR DETERMINING AND ALLOCATING CREDITS TOWARD THE PAYMENT OF DEVELOPMENT FEES.

WHEREAS, pursuant to Arizona Revised Statutes Section 11-1102, the Pinal County Board of Supervisors reviewed and adopted the Capital Improvement Plan for Public Safety, Streets, and Parks dated May 24, 2006 ("CIP"); and

WHEREAS, pursuant to Arizona Revised Statutes Section 11-1102, the Pinal County Board of Supervisors received, discussed and released to the public, the Capital Improvements Program for New Growth and Development Fee Study, dated May 24, 2006, and provided notice of the intent to establish new development fees based on the CIP; and

WHEREAS, pursuant to Arizona Revised Statutes Section 11-1102, more than one hundred twenty days have passed from the County's publication of its Notice of Intention to assess a new or increased development fee; and

WHEREAS, the County Board of Supervisors has conducted a public hearing on the proposed new development fees at least fourteen days before the scheduled date of the adoption of the new fees; and

WHEREAS, the Pinal County Board of Supervisors has determined that it is appropriate and necessary to adopt development fees and to determine the methodology for allocating credits toward the payment of the development fees.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PINAL COUNTY, ARIZONA, THAT:

Section 1. Title. This Ordinance shall be entitled "The Pinal County Development Fee Ordinance".

Section 2. Legislative intent and purpose. This Ordinance is adopted for the purpose of promoting the health, safety and general welfare of the residents of Pinal County by:

- A. Implementing the Pinal County Capital Improvement Plan ("CIP").
- B. Requiring new development to pay its proportionate share of the capital costs to Pinal County associated with providing public safety, streets, and parks facilities necessary to serve new development by paying development fees related to those facilities.
- C. Setting forth standards and procedures for assessing development fees and administering the development fee program.

Section 3. Definitions.

A. The terms used in this Article shall have the following definitions:

1. "Benefit Areas" means the Impact Fee Areas identified as sub-regions designated in the Capital Improvements Program for New Growth and Development Fee Study, dated May 24, 2006 as may be amended or updated.
2. "Building Permit" means the permit required for construction as determined pursuant to the Pinal County Building Code. For purposes of this Ordinance, the term "building permit" shall not include a permit required for reconstruction of a structure if the reconstruction does not reflect a change in the number of EDUs applicable to the development.
3. "CIP" means the adopted Pinal County Capital Improvement Plan, which itemizes the nature, extent, cost, anticipated funding, and phasing of capital improvements for Pinal County.
4. County means Pinal County.
5. County Manager means the Manager for Pinal County or his/her designee.
6. "Development Agreement" means an agreement between Pinal County and anyone or more of the following:
 - a. A community facilities district pursuant to A.R.S. § 48-709(A).
 - b. A landowner.
 - c. Any other person having an interest in real property as described in A.R.S. § 11-1101.
7. "EDU" or "equivalent dwelling unit" means the effect on the usage of public infrastructure or services which are equivalent to that of a single-family detached residential dwelling as defined by the Pinal County Zoning Ordinance.
8. "New development" means any construction pursuant to a building permit issued after the effective date of this Ordinance.
9. "VMT" means vehicle miles traveled; that is, the arithmetic product of the counted or estimated daily motorized vehicular traffic on a roadway segment multiplied by the length of the roadway segment in miles.

B. For purposes of calculating the development fee amounts for non-residential land uses, the land use definitions set forth in the *Institute of Transportation Engineers Trip Generation Manual* shall apply.

Section 4. Applicability. This Ordinance applies to all new development within Pinal County for which a development fee has been adopted pursuant to this Ordinance.

Section 5. Development Fee Study. Any Pinal County development fee study shall incorporate the Pinal County's CIP. All proposed expenditures for projects funded or to be funded, in whole or in part, with development fees shall be identified in the development fee study and the CIP. As benefit areas are identified, the improvements identified in the benefit areas to be funded with development fees shall be included in the CIP. The development fee study and CIP shall be updated and adopted as necessary as determined by the Board.

Section 6. Infrastructure Needs Assessment. Nothing in this Ordinance shall be construed to require Pinal County to remedy existing infrastructure deficiencies before adopting or imposing a development fee. As part of the identification of benefit areas pursuant to Section 6, the Pinal County development fee study shall:

- A. Identify the level of service standards upon which the development fee is to be based.
- B. Determine and distinguish between existing deficiencies and projected new development needs, applying the level of service standards upon which the development fee is to be based.
- C. Describe how Pinal County plans to remedy the existing deficiencies.
- D. Inventory existing infrastructure which are to be included in the benefit areas.
- E. Identify the level of service standard applicable to each inventoried infrastructure.

Section 7. Benefit Areas. Before assessment of new development fees, Pinal County shall identify benefit areas for the geographic area in which development fees will be applied. Each benefit area shall comply with the following requirements:

- A. For each benefit area, the development fee study shall determine the extent of improvements needed or existing to serve the anticipated future development of the benefit area, considering the Pinal County Comprehensive Plan and the CIP.
- B. For each benefit area, the CIP and development fee study shall determine the actual public facilities capital costs or reasonable estimates of capital costs incurred or to be incurred on projects, any portion of which are to be funded with development fees.
- C. The development fee study shall determine the extent of which the costs determined in Sections 4 through 6 will be funded from sources other than development fees.
- D. Each benefit area shall include an estimate of the timing of improvement construction to be constructed with development fees within the benefit area. The estimate shall be related to the rate of new development projected to occur within the benefit area.

E. The development fee study shall identify the public facilities Pinal County finds will bear a reasonable relationship to the needs created by development within the identified benefit areas.

Section 8. Adoption Procedure.

A. Prior to the adoption of a development fee, the Board of Supervisors shall have prepared a report including all appropriate documentation that supports the assessment of the new or increased development fee. The report shall demonstrate that the amount of the development fee bears a reasonable relationship to the burden of capital costs imposed on the County to provide the improvements set forth in the CIP that may serve the new development. In determining the extent of the burden imposed by the development, the County shall consider, among other things, the contribution made or to be made in the future by taxes, fees or assessments by the property owner toward the capital costs of the necessary public service covered by the development fee.

B. Development fees shall be assessed by the board of supervisors in a nondiscriminatory manner.

C. In determining and assessing development fees applying to land in a community facilities district established pursuant to A.R.S. § 48-101 et seq., the board of supervisors shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and shall not assess a portion of the development fee based on the infrastructure or costs.

D. Prior to assessing or increasing development fees, the Board of Supervisors shall:

1. Give at least one hundred twenty days advance notice of intention to assess new or increased development fees.
2. Release to the public a written report including all documentation that supports the assessment of new or increased development fees.
3. Conduct a public hearing on the proposed new or increased development fees at any time after the expiration of the one hundred twenty day notice of intention to assess a new or increased development fees and at least fourteen days before the scheduled date of adoption of the new or increased development fees.

Section 9. Schedule of Development Fees by Impact Fee Areas. A Schedule of Development Fees is adopted as set forth below in this Section. Each new development shall be assessed a fee based on the following schedule.

	IFA 1				IFA 2				IFA 3			
	Public				Public				Public			
	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL
Residential (per unit)	\$222	\$892	\$7,850	\$8,961	\$222	\$892	\$7,709	\$8,823	\$222	\$892	\$6,917	\$8,031
Single Family Detached	\$103	\$414	\$4,093	\$4,610	\$103	\$414	\$4,019	\$4,536	\$103	\$414	\$3,607	\$4,124
All Other Types of Housing												
Nonresidential (per square foot/hotel room)	N/A	\$1.15	\$26.26	\$27.41	N/A	\$1.15	\$25.80	\$26.95	N/A	\$1.15	\$23.26	\$24.41
Commercial / Shopping Center 25,000 SF or less	N/A	\$1.00	\$22.81	\$23.81	N/A	\$1.00	\$22.42	\$23.42	N/A	\$1.00	\$20.21	\$21.21
Commercial / Shopping Center 25,001-50,000 SF	N/A	\$0.83	\$19.05	\$19.88	N/A	\$0.83	\$18.72	\$19.55	N/A	\$0.83	\$16.87	\$17.70
Commercial/Shopping Center 50,001-100,000 SF	N/A	\$0.71	\$16.30	\$17.01	N/A	\$0.71	\$16.02	\$16.73	N/A	\$0.71	\$14.44	\$15.15
Commercial/Shopping Center 100,001-200,000 SF	N/A	\$0.60	\$13.86	\$14.46	N/A	\$0.60	\$13.62	\$14.22	N/A	\$0.60	\$12.27	\$12.87
Commercial/Shopping Center over 200,000 SF	N/A	\$0.42	\$10.53	\$10.95	N/A	\$0.42	\$10.35	\$10.77	N/A	\$0.42	\$9.32	\$9.74
Office 10,000 SF or less	N/A	\$0.34	\$8.53	\$8.87	N/A	\$0.34	\$8.38	\$8.72	N/A	\$0.34	\$7.54	\$7.88
Office 10,001-25,000 SF	N/A	\$0.29	\$7.27	\$7.56	N/A	\$0.29	\$7.14	\$7.43	N/A	\$0.29	\$6.43	\$6.72
Office 25,001-50,000 SF	N/A	\$0.25	\$6.20	\$6.45	N/A	\$0.25	\$6.09	\$6.34	N/A	\$0.25	\$5.48	\$5.73
Office 50,001-100,000 SF	N/A	\$0.21	\$5.28	\$5.49	N/A	\$0.21	\$5.19	\$5.40	N/A	\$0.21	\$4.67	\$4.88
Office 100,000 SF	N/A	\$0.24	\$5.93	\$6.17	N/A	\$0.24	\$5.82	\$6.06	N/A	\$0.24	\$5.25	\$5.49
Business Park	N/A	\$0.13	\$3.24	\$3.37	N/A	\$0.13	\$3.18	\$3.31	N/A	\$0.13	\$2.86	\$2.99
Light Industrial	N/A	\$0.09	\$2.30	\$2.39	N/A	\$0.09	\$2.26	\$2.35	N/A	\$0.09	\$2.04	\$2.13
Warehousing	N/A	\$0.07	\$1.77	\$1.84	N/A	\$0.07	\$1.74	\$1.81	N/A	\$0.07	\$1.57	\$1.64
Manufacturing	N/A	\$104	\$2,618	\$2,722	N/A	\$104	\$2,572	\$2,677	N/A	\$104	\$2,316	\$2,421
Hotel (per room)												

	IFA 4				IFA 5				IFA 6			
	Public				Public				Public			
	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL
Residential (per unit)	\$222	\$892	\$3,967	\$7,081	\$222	\$892	\$7,173	\$8,287	\$222	\$892	\$7,173	\$8,287
Single Family Detached	\$103	\$414	\$3,111	\$3,628	\$103	\$414	\$3,740	\$4,257	\$103	\$414	\$3,740	\$4,257
All Other Types of Housing												
Nonresidential (per square foot/hotel room)	N/A	\$1.15	\$20.21	\$21.36	N/A	\$1.15	\$24.08	\$25.23	N/A	\$1.15	\$24.08	\$25.23
Commercial / Shopping Center 25,000 SF or less	N/A	\$1.00	\$17.56	\$18.56	N/A	\$1.00	\$20.92	\$21.92	N/A	\$1.00	\$20.92	\$21.92
Commercial / Shopping Center 25,001-50,000 SF	N/A	\$0.83	\$14.66	\$15.49	N/A	\$0.83	\$17.47	\$18.30	N/A	\$0.83	\$17.47	\$18.30
Commercial/Shopping Center 50,001-100,000 SF	N/A	\$0.71	\$12.55	\$13.26	N/A	\$0.71	\$14.95	\$15.66	N/A	\$0.71	\$14.95	\$15.66
Commercial/Shopping Center 100,001-200,000 SF	N/A	\$0.60	\$10.66	\$11.26	N/A	\$0.60	\$12.71	\$13.31	N/A	\$0.60	\$12.71	\$13.31
Commercial/Shopping Center over 200,000 SF	N/A	\$0.42	\$8.08	\$8.50	N/A	\$0.42	\$9.65	\$10.07	N/A	\$0.42	\$9.65	\$10.07
Office 10,000 SF or less	N/A	\$0.34	\$6.55	\$6.89	N/A	\$0.34	\$7.81	\$8.15	N/A	\$0.34	\$7.81	\$8.15
Office 10,001-25,000 SF	N/A	\$0.29	\$5.58	\$5.87	N/A	\$0.29	\$6.66	\$6.95	N/A	\$0.29	\$6.66	\$6.95
Office 25,001-50,000 SF	N/A	\$0.25	\$4.76	\$5.01	N/A	\$0.25	\$5.68	\$5.93	N/A	\$0.25	\$5.68	\$5.93
Office 50,001-100,000 SF	N/A	\$0.21	\$1.05	\$4.26	N/A	\$0.21	\$4.84	\$5.05	N/A	\$0.21	\$4.84	\$5.05
Office 100,000 SF	N/A	\$0.24	\$4.55	\$4.79	N/A	\$0.24	\$5.43	\$5.67	N/A	\$0.24	\$5.43	\$5.67
Business Park	N/A	\$0.13	\$2.48	\$2.61	N/A	\$0.13	\$2.97	\$3.10	N/A	\$0.13	\$2.97	\$3.10
Light Industrial	N/A	\$0.09	\$1.77	\$1.86	N/A	\$0.09	\$2.11	\$2.20	N/A	\$0.09	\$2.11	\$2.20
Warehousing	N/A	\$0.07	\$1.36	\$1.43	N/A	\$0.07	\$1.62	\$1.69	N/A	\$0.07	\$1.62	\$1.69
Manufacturing	N/A	\$104	\$2,010	\$2,114	N/A	\$104	\$2,399	\$2,504	N/A	\$104	\$2,399	\$2,504
Hotel (per room)												

	IFA 7			
	Public			
	Parks	Safety	Streets	TOTAL
Residential (per unit)	\$222	\$892	\$7,173	\$8,287
Single Family Detached	\$103	\$414	\$3,740	\$4,257
All Other Types of Housing				
Nonresidential (per square foot/hotel room)	N/A	\$1.15	\$24.08	\$25.23
Commercial / Shopping Center 25,000 SF or less	N/A	\$1.00	\$20.92	\$21.92
Commercial / Shopping Center 25,001-50,000 SF	N/A	\$0.83	\$17.47	\$18.30
Commercial/Shopping Center 50,001-100,000 SF	N/A	\$0.71	\$14.95	\$15.66
Commercial/Shopping Center 100,001-200,000 SF	N/A	\$0.60	\$12.71	\$13.31
Commercial/Shopping Center over 200,000 SF	N/A	\$0.42	\$9.65	\$10.07
Office 10,000 SF or less	N/A	\$0.34	\$7.81	\$8.15
Office 10,001-25,000 SF	N/A	\$0.29	\$6.66	\$6.95
Office 25,001-50,000 SF	N/A	\$0.25	\$5.68	\$5.93
Office 50,001-100,000 SF	N/A	\$0.21	\$1.84	\$5.05
Office 100,000 SF	N/A	\$0.24	\$5.43	\$5.67
Business Park	N/A	\$0.13	\$2.97	\$3.10
Light Industrial	N/A	\$0.09	\$2.11	\$2.20
Warehousing	N/A	\$0.07	\$1.62	\$1.69
Manufacturing	N/A	\$104	\$2,399	\$2,504
Hotel (per room)				

Section 10. Procedures for Imposition, Calculation, Credits, and Collection of Development Fees; Exemptions.

A. *In general.* The County will notify an applicant of applicable development fee requirements at the time of application for a building permit. The County calculates development fees at the time of application for a building permit and the applicant must pay the fees due prior to the issuance of a building permit.

B. *Determinations.*

1. Upon receipt of an application for a building permit, the County determines:
 - a. Whether the proposed use is a residential or non-residential use,
 - b. The specific category of residential or non-residential development, if applicable,
 - c. If a residential use is proposed, the number of new dwelling units,
 - d. If a non-residential use is proposed, the number of new or additional square feet of gross floor area, and
 - e. The Impact Fee Area in which the new development is located.

2. Upon receipt of an application for a building permit, the County determines whether the development proposed involves a change in use. In such cases, the development fee due is based on only the incremental increase in the residential units, or square footage added to the existing use, measured from the date of adoption of this Ordinance. For those non-residential uses identified as business park, light industrial, warehousing, and manufacturing, the fee shall be based on the rate per square foot of applicable use identified in Section 9 of this Ordinance.

C. *Calculations.*

1. After making the necessary determinations, the County, based on its Impact Fee Study, calculates the demand for the public facility created by the proposed new development for each public facility category for which a development fee is being imposed, and calculates the applicable development fee by multiplying the units or square footage of demand proposed by the amount of the applicable development fee per unit or square footage of development, less any applicable credit.

2. The calculation of development fees due from a multiple-use new development is based upon the aggregated demand for each public facility generated by each land use type in the new development.

3. **Phase Development Calculation.** The calculation of development fees due from a phased new development is based upon the demand generated by each specific land use within each phase of development for which a separate building permit is requested.

4. Development fees are calculated based on the development fee amount in effect at the time of application for a building permit.

5. For applications for a building permit for a building shell where the actual use of the building is unknown, the development fee shall be calculated based on the lowest intensity land use allowed within the applicable zoning district. At the time the certificate of occupancy is issued and the permanent use is established, the applicant shall be assessed additional fees if the actual use of the property results in a higher fee.

D. ***Alternate Development Fee Calculation.***

1. In the event an applicant believes that the impact to public facilities necessitated by new development is less than the development fee imposed in Section 9, the applicant may, prior to issuance of a building permit, request an appeal of the amount of the development fee.

2. With the request for appeal of the development fee amount, applicant shall submit, at applicant's own expense, an independent impact analysis. No building permit shall be issued until the independent impact analysis is complete and a determination as to the appropriate fee, with a recommendation from the County Manager, is made by Board of Supervisors.

3. The independent impact analysis must be consistent with the requirements of this section.

4. The independent impact analysis must be calculated for that land use type analyzed in the applicable Impact Fee Area and based on data, information, or assumptions contained in the Impact Fee Study documentation, or an independent source, provided that:

a. The independent source is a generally-accepted standard source of demographic and planning data; or

b. The independent source is a local study supported by a data base adequate for the conclusion contained in the independent impact analysis and performed pursuant to a generally-accepted methodology.

5. If a previous applicant has submitted a local study consistent with the criteria for an independent impact analysis, and if such study is determined by the County Manager to be current, the impact upon the public facilities as described in such prior local study shall be presumed to exist for a similar land use proposed by a subsequent applicant. There shall be a rebuttable presumption that an independent impact analysis more than two (2) years old is invalid.

6. If the Board of Supervisors determines that the independent impact analysis complies with the requirements of this section and the alternative development fee is less than the fees set forth in Section 9, then the alternative fee shall be paid by the applicant. If the alternative development fee is greater than the fees set forth in Section 9, the fees set forth in Section 9 shall be due.

E. ***Non-Binding Estimate.*** An applicant may request a non-binding estimate of development fees due for a particular new development at any time by filing a request on a form

provided for such purpose by the County Manager; provided, however, that such estimate may be subject to change when a formal application for a building permit for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and in no way binds the County nor precludes it from making amendments or revisions to any provisions of this Ordinance.

F. **Credits.**

1. Credits against the amount of development fees may be given, pursuant to the terms outlined below, either

a. By the Board of Supervisors for a new development, pursuant to a development agreement, for dedications of land or actual construction, by a developer of all or part of a public facility necessary to offset the impacts of a new development.

b. As recommended by the County Manager, subject to Board approval, credits against the amount of development fees due on existing development pursuant to the terms outlined below, either:

(1) where an applicant demonstrates that excess public facility capacity, for which a development fee is imposed under this Ordinance, was provided previously pursuant to zoning stipulations.

(2) where transportation fees have been paid into either the Superstition Valley Transportation Fund, the Maricopa Subregional Transportation Fund or the Southern Pinal County Regional Transportation Fund on dwelling units or square footage of non-residential development prior to issuance of a building permit and for which a development fee is imposed under this Ordinance.

2. Public safety, park improvements and street support facilities provided by a developer or property owner which are included in and conform to the adopted CIP are eligible for credits against the applicable development fee, up to the total amount of fees which are imposed.

3. Credits for dedication or construction. Application for a credit for the dedication or construction of public facilities must be made on a form provided by the County Manager for such purposes. The application must be accompanied by a proposed development agreement as provided herein.

a. **Requirements.** In order to be eligible for development fee credits, the public facility proposed for dedication or construction must be:

(1) A planned improvement, either:

- (a) Included in the County's current CIP; or
 - (b) Determined by resolution of the Board of Supervisors for inclusion during the immediately subsequent update to the CIP;
- (2) Of a type included in the Impact Fee Study;
 - (3) Credited only against the same type of development fee (i.e. public safety, park improvements or streets) as is being proposed for dedication or construction; and
 - (4) Subject to an executed development agreement, as provided herein, prior to the issuance of a building permit for which a credit is sought.

b. ***Procedure.***

- (1) Upon receipt of a complete application and proposed development agreement, the County Manager, County Attorney, and other appropriate staff must review the application and proposed agreement, as well as such other information and evidence as may be deemed relevant, and the County Manager must forward to the Board of Supervisors a report as to whether a credit is properly based on the provisions of this Ordinance.
- (2) Based on the report of the County Manager, the provisions of this Ordinance, the CIP, the Comprehensive Plan, adopted County budget, and the Impact Fee Study, the Board of Supervisors must make a final decision to accept, reject, or accept with conditions the proposed dedication or construction and development agreement in exchange for a credit against development fees owed.

c. ***Calculation of the value of dedication or construction.***

- (1) The amount of the credit to be given as a result of the dedication or construction of a public facility for which a development fee is imposed under this Ordinance is to be calculated as the lower of the following:
 - (a) The amount of the development fee due pursuant to this Ordinance;
 - (b) The costs assumed in the County's CIP; or
 - (c) The actual verified costs of dedication or construction.

(2) If the actual verified costs are used, the credit shall be calculated as follows:

(a) **Construction of facilities and provision of equipment.** The credit must be equal to the actual cost of construction or equipment, as evidenced by receipts and other sufficient documentation provided by the developer of the public facility and verified by the County Manager, but no greater than the maximum fees to be paid by the applicant on the new development.

(b) **Dedication of land.** The credit is to be based on the fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the County rejects the applicant's appraisal, the County may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the County and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques and the date of valuation must be the date of transfer to the County.

d. **Development agreement requirements.** No dedication or construction project may be accepted in exchange for a credit except pursuant to an executed development agreement between the County and the provider of the dedication or construction, which must include the following:

(1) A schedule for the initiation and completion of the construction of the proposed public facility;

(2) The amount of the development fees, by type, proposed to be credited by the County;

(3) Where excess capacity is provided:

(a) The amount, nature, and location of excess capacity being provided;

(b) The eligibility for such excess capacity to be used for credits against development fees owed by subsequent applicants;

- (c) The amount of such credits and their duration;
 - (d) The geographic area within which such credits would be awarded based on the excess capacity benefit created by the dedication or construction; and
 - (e) The mechanism for transferring the excess credits to properties within the geographic benefit area of the dedication or construction.
- (4) A provision that all construction will be in accordance with County specifications and all regulations set forth in the Pinal County Subdivision Ordinance; and
 - (5) Such other terms and conditions as deemed necessary by the County.

e. **Transferability.** Credits granted pursuant to this section may be transferred from the applicant to property owners within the original development. However, in order to transfer credits from the original development to another development, an application must be made pursuant to paragraph (4) below.

4. **Credits to subsequent applicants.** An applicant may be given a credit against a development fee upon demonstration that, after the date of this Ordinance, a public facility was dedicated or constructed, pursuant to paragraph (3) above, which will mitigate the impacts of the proposed new development on the particular public facility for which the dedication or construction was made and for which a fee is imposed under this Ordinance and where previous credit has not been granted.

a. **Requirements.** In order for a credit to be given pursuant to this section, the applicant must demonstrate that:

(1) The public facility provided pursuant to paragraph (2) above had sufficient excess capacity to offset the impacts of the applicant's proposed new development;

(2) The public facility provided pursuant to paragraph (2) above reduced the overall need for public facilities otherwise created by the proposed new development;

(3) The proposed new development complies with all conditions of acceptance of the public facility provided pursuant to paragraph (2) above, including time and geographic limitations for eligibility;

(4) The public facility provided pursuant to paragraph (2) above was for the same type of development fee as is being proposed for a credit; and

(5) The applicant has secured a right to an allocation of capacity equal to the development fee owed by the applicant.

b. ***Procedure.***

(1) Applications for a credit, based on a previously dedicated or constructed public facility, must be made on a form provided by the County Manager or designated representative for such purposes. The application must be accompanied by evidence of a transfer of credit granted pursuant to paragraph (2) above.

(2) Upon receipt of a complete application, the County Manager must review the application, as well as such other information and evidence as may be deemed relevant, and determine whether a credit is properly based on the provisions of this Ordinance, the CIP, the Comprehensive Plan, the Impact Fee Study, and/or other relevant evidence.

(3) If the County Manager determines that a credit is appropriate, the County Manager shall so indicate on the appropriate form and the credit shall be given upon the calculation and collection of the required development fee at the time of issuance of a building permit.

G. ***Collection.*** The County collects all applicable development fees prior to the issuance of a building permit and issues a receipt to the applicant for such payment unless:

1. The applicant is entitled to a full or partial credit;
2. The applicant is not otherwise subject to the payment of a development fee; or
3. The applicant has filed an appeal and a bond or other surety in the amount of the development fee, as calculated by the County and approved by the County Attorney.

H. ***Exemptions.***

1. ***Generally.*** An applicant proposing a development for which development fees are due may be eligible for a partial or full exemption from the requirements of this Ordinance, only as specifically provided for in this section.

2. ***Application for exemption.*** Applications for exemptions shall be filed with the County Manager on forms provided by the County for such purpose.

3. *Eligibility for exemption.* Partial or full exemptions from the payment of development fees as required by this Ordinance may be made only for the following types of uses:

(a) *Affordable housing.* Defined as projects that meet United States Department of Housing and Urban Development housing affordability guidelines for low and moderate income households.

4. *Review of an application for exemption.* Upon receipt of a complete application for exemption, the County Manager shall review the proposed new development and shall make a recommendation to the Board of Supervisors as to whether the new development qualifies for an exemption pursuant only to the provisions in paragraph (3) above. Based on the recommendation of the County Manager and the criteria set forth in paragraph (3), the Board of Supervisors shall either grant without conditions, grant with conditions, or deny a proposed exemption request.

5. *Notification to appropriate departments.* If the Board of Supervisors determines that the proposed development qualifies for an exemption, the County Manager shall notify the Finance Director that the exemption has been approved and that a funding source other than development fees shall be used to fund public facilities in accordance with the adopted Capital Improvement Program.

6. *Effect of grant of exemption.* If the Board of Supervisors grants an exemption of development fees otherwise due, the Finance Director shall transmit funds equal in amount to those exempted, from a source other than development fees, into the appropriate development fee account within one year of the grant of the exemption. The County shall not increase the amount of development fees payable under this Ordinance to replace any revenue lost on account of the exemptions granted.

Section 11. Administration of Development Fees.

A. The development fee program shall be administered by the County Manager or such persons or departments designated by the County Manager.

B. Pinal County Development Services is responsible for collecting and accounting for development fees adopted pursuant to this Ordinance. In accordance with A.R.S. § 11-1102(B), the fees shall be accounted for in a separate fund by benefit area (IFA 1-7) and impact fee element (parks, public safety and streets) that clearly identifies the purpose for which the fee was imposed. Interest earned on monies in the fund shall be credited to the fund.

C. Pinal County shall retain copies of all documents and any other data sources on which the development fee is based, and shall make such information available to the public on request.

D. The County shall submit an annual report accounting for the collection and use of the fees. The annual report shall include the following:

1. The amount assessed by the County for each type of development fee.
2. The balance of each fund maintained for each type of development fee assessed as of the beginning and end of the fiscal year.
3. The amount of interest or other earnings on the monies in each fund as of the end of the fiscal year.
4. The amount of development fee monies used to repay:
 - a. Bonds issued by the County to pay the cost of a capital improvement project that is the subject of a development fee assessment.
 - b. Monies advanced by the County from funds other than the funds established for development fees in order to pay the cost of a capital improvement project that is the subject of a development fee assessment.
5. The amount of development fee monies spent on each capital improvement project that is the subject of a development fee assessment and the physical location of each capital improvement project.
6. The amount of development fee monies spent for each purpose other than a capital improvement project that is the subject of a development fee assessment.

E. Within ninety days following the end of each fiscal year, the County shall submit copy of the annual report to the Clerk of the Pinal County Board of Supervisors. Copies shall be made available to the public on request. The annual report may contain financial information that has not been audited.

Section 12. Bi-annual review and update. Every two years, starting from the effective date of the current development fees, the County will update the development fees in effect in the County. The County will have prepared an Impact Fee Study, which will examine and determine the appropriate amount of the applicable development fees, update the Impact Fee Areas, and recommend any amendments to the County development fee program.

Section 13. Annual Adjustments. Each year in which the County does not conduct an update of the development fees under Section 12 of this Ordinance, the County will adjust the amount of each development fee to account for inflationary increases in the cost of providing public facilities provided for under the CIP, utilizing the most recent data from the Engineering News Record Construction Cost Index, the Consumer Price Index, and the County Assessor's office, as appropriate.

Section 14. Infrastructure not included in CIP. This Ordinance shall not affect any legal authority Pinal County may have to disapprove a new development which requires the

construction of infrastructure not included in the CIP or to approve new development conditioned upon the developer providing for such infrastructure.

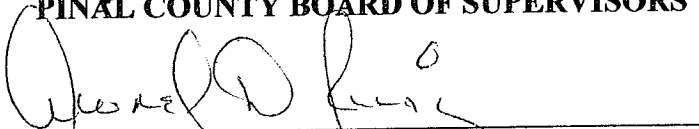
Section 15. Development Fee Effective Date. Any new or increased development fees shall be assessed upon the effective date of the Ordinance adopting the new or increased development fees, except that the prior development fees shall apply to any building permits applied for prior to the effective date of the new or increased development fees.

Section 16. This Ordinance shall become effective 90 days from the date of adoption.

Section 17. The various Pinal County officers and employees are hereby authorized and directed to perform all acts necessary and desirable to give effect to this Ordinance.


PASSED AND ADOPTED this October 18, 2006, by the Pinal County Board of Supervisors.

PINAL COUNTY BOARD OF SUPERVISORS

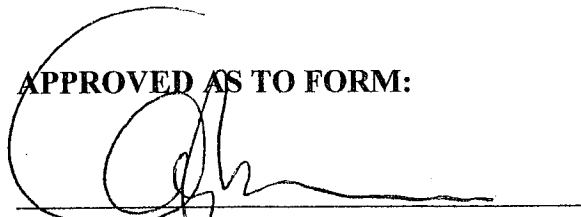

Chairman of the Board of Supervisors

Date: October 18, 2006

ATTEST:


Clerk of the Board of Supervisors

APPROVED AS TO FORM:


County Attorney

