

Chapter 29 DEVELOPMENT IMPACT FEE ORDINANCE

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Sec. 29-1. Title.

This chapter shall be known as the "Development Impact Fee Ordinance of the City of Phoenix," may be cited as such, and will be referred to hereinafter as "ordinance".

Sec. 29-2. Legislative intent and purpose.

This ordinance is adopted for the purpose of promoting the health, safety and general welfare of the residents of the City by:

- A. Implementing the City of Phoenix General Plan;
- B. Requiring new development to pay its proportionate share of the costs to the municipality associated with providing necessary public services to the development;
- C. Setting forth standards and procedures for assessing development impact fees and administering the development impact fee program.

Sec. 29-3. Definitions.

Administrative Charge: a non-refundable fee charged for the administration of the Development Impact Fee program at the time an Impact Fee is assessed.

Alternative revenue offset: The net present value of future revenues obtained from secondary property tax, water and sewer rates, development occupational fees, and other sources used to pay for existing development's share of the cost of facilities included in the infrastructure improvements plans or infrastructure financing plans. Alternative revenue offsets should also be

provided for future tax payments that will be made by new development that will be used to retire outstanding debt that created capacity in the same category of facilities to serve existing development.

Arena: A large indoor or outdoor structure in which spectator events are held. These facilities could be made available for many uses including but not limited to ice hockey, basketball, concerts, shows and religious services.

Capital facilities: Necessary public services that are permanent additions to the City's assets, that are primarily financed by long-term debt instruments and not from the City's annual operating budget, and which include purchase of land, studies leading to design, design and construction, of buildings and facilities. "Capital facilities" and "infrastructure" are terms that may be used interchangeably.

Capital facility category: A classification of capital facilities as set out in Section 29-5.A.4.d of this Ordinance which corresponds to the capital program area of the most recent City of Phoenix Capital Improvement Program.

City: The City of Phoenix, Arizona.

Core land use: A mix of uses including office, retail, public, governmental, and residential. The variety of uses is determined by the uniqueness of each village core and the development character of each urban village. Core land uses are limited to areas identified as village cores on one or more adopted planning documents including the Phoenix General Plan, specific plans and zoning maps.

Credit, Development Impact Fee: A reduction in an assessed development impact fee resulting from developer contributions to, payments for, construction of, or dedications for capital facilities included in the Specific Infrastructure Financing Plan (or as otherwise permitted by this Ordinance).

Credit Agreement: A written agreement between the City of Phoenix and the developer(s) of a subject development which allocates of development impact fee credits to the development. A credit agreement may be included as part of a development agreement.

Credit Allocation: a term used to describe when impact fee credits are distributed to a particular development or parcel of land after execution of a credit agreement, but not yet issued.

Credit Issuance: a term used to describe when the amount an assessed impact fee is reduced by a credit amount allocated to a particular development or parcel of land.

Day care center: A facility for the daily care of dependent populations including infants, preschool and young children as well as elderly persons, typically taking place during daylight hours, although they may also offer care at other hours of the day. Such facilities may include classrooms, offices, eating and sleeping areas, and playgrounds or outdoor recreation areas.

Development Agreement: An agreement prepared in accordance with Section 9-500.05, Arizona Revised Statutes, which may include provisions regarding impact fee credits for a development and/or reimbursement to a developer for providing necessary capital facilities.

Dwelling unit (DU): A house, an apartment, a mobile home or trailer, a group of rooms or a single room occupied as separate living quarters or, if vacant, intended for occupancy as separate living quarters. Dwelling unit and housing unit are terms that may be used interchangeably.

Elementary school: An institution of learning offering education for children, including some or all of the grades from kindergarten through 8th grade. The site may contain athletic, dining, assembly and recreation facilities.

Equipment repair facilities: A category of capital facilities including but not limited to service centers for the repair and maintenance of City vehicles and office and storage space serving the service area in which the development fees will be applied.

Equivalent dwelling unit (EDU): A number which represents the demand that a particular land use type places on each capital facility category compared to the demand created by a detached single-family dwelling unit on each category. The EDU number is represented as a ratio determined by dividing an indicator of the use type demand by an indicator of the detached single-family dwelling unit demand.

Fee Service area: A geographic area, which may include some currently unincorporated area, in which a set of capital facilities provides reasonably uniform service to development. Some of the capital facilities providing service to the area may be physically located outside the service area. All development in a fee service area or served by a fee service area's facilities is subject to the same impact fee schedule for a capital facility category.

Fire protection: A category of capital facilities including but not limited to fire stations, related equipment and vehicles and other facilities necessary for fire protection.

Golf course: A tract of land laid out for playing golf with nine or more holes. Some golf courses have driving ranges and clubhouses with a pro shop, restaurant, lounge and banquet facilities, while others have no ancillary facilities.

Gross Impact Fee: the total impact fee to be assessed against a subject development, prior to subtraction of any Offsets. The Gross Impact Fee is calculated by multiplying the Gross Impact Fee per Unit (for each fee category) times the applicable number of units within the subject development.

Gross Impact Fee per Unit: the adopted Development Impact Fee for each type of use, per unit, as stated in the various Development Impact Fee Schedules provided in Section 29-8. The amount(s) may differ from the Gross Impact Fee(s) recommended in the adopted Specific Infrastructure Financing Plan.

High school: A secondary education level institution with an instructional program leading to issuing a high school diploma. The site may contain athletic, dining, assembly and recreation facilities.

Hospital: An institution for the diagnosis, care or treatment of two or more unrelated persons suffering from illness, injury, or deformity or for the rendering of obstetrical or other professional care, other than in an emergency, where overnight accommodations are provided. The term "hospital" shall not be construed to include the office of a physician or practitioner.

Impact Fee Study: The written report that identifies the methodology for calculating the amount of the development impact fee, explains the relationship between the development impact fee and the infrastructure improvements plan, and meets other requirements set forth in Section 9-463.05, Arizona Revised Statutes.

Industrial: A category of nonresidential land uses that includes industrial, manufacturing, warehousing and mini-warehouse uses.

Industrial and manufacturing: A land use which may include one or more of the following: fabrication, processing, assembly, storage and distribution of raw materials and goods, including agricultural products and may also include office and maintenance areas. The office use may not be more than fifty percent of the square footage of the structure.

Infrastructure Improvements Plan: A document that estimates the future necessary public services that will be required as a result of new development in each fee service area; forecasts the costs of infrastructure, improvements, real property, financing, and other costs associated with meeting those future needs; forecasts the revenue sources that will be available to fund the necessary public services and estimates the time required to finance and provided the necessary public services; and meets other requirements set forth in Section 9-463.05, Arizona Revised Statutes.

Level of service (LOS): The amount and quality of service provided by a capital facility for the population and land uses it serves. LOS may be measured differently for different capital facility categories, as identified in the applicable Infrastructure Improvements Plan adopted as part of the Specific Infrastructure Financing Plan.

Libraries: A category of capital facilities including but not limited to libraries, related equipment, furnishings, books and other circulating items.

Lodging: hotel, motel or resort: A facility designed for occupancy by transients or as a residence for periods of less than one year. A hotel shall contain rooming units and customarily provides housekeeping, bellhop, laundry, and on site recreation services. Where appropriately zoned, restaurant, bar, personal and retail services, and entertainment may also be available. Motels may maintain separate outside guest room entrances. Resorts may offer outdoor recreation activities such as golf, tennis, horseback riding, or swimming for guests and may have dwelling units in conjunction with guest rooms. Conference or convention centers on the

premises of a hotel, motel or resort hotel shall be considered separately for the purposes of this chapter.

Mini-warehouse: A building in which a storage unit or vault is rented for the storage of goods. Each unit is physically separated from the other units and access is usually provided through an overhead door or other common access point.

Multifamily dwelling unit: A structure designed or used for living quarters and containing two or more separate living quarters.

Net Impact Fee: The Gross Impact Fee minus any applicable Offsets.

Nursing home: A health care institution which is licensed by the Arizona State Department of Health Services as a skilled nursing facility for two or more unrelated persons.

Office: A category of nonresidential land use that includes general office and medical-dental office buildings. A general office building houses multiple tenants; it is a location where affairs of businesses, commercial or industrial organizations, or professional persons or firms are conducted. A medical-dental office is a facility that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical or surgical care. An office building may contain a mixture of tenants, and tenant services such as a bank or savings and loan, a restaurant or cafeteria, and service retail facilities.

Office/institutional: A category of nonresidential land use that includes general office and medical-dental office buildings, as well as public and quasi-public uses not elsewhere classified in other land use categories in the fee schedule.

Offset: An amount which is subtracted from the Gross Impact Fee to compensate for existing infrastructure or associated debt already being paid for by the development through a mechanism other than a Development Impact Fee. The total offset for a subject development is calculated by multiplying the Offset per Unit times the number of Units within the subject development, as stated in Section 29-7.

Offset per EDU: an amount of money subtracted from the Gross Impact Fee per EDU prior to assessment of a Development Impact Fee. The amount is determined either a) in an adopted Infrastructure Improvements Plan and shown in the Development Impact Fee schedules provided in Section 29-7 of this Ordinance; or b) in the Offsets Report (kept on file with the Planning Director) for fee categories which do not yet have an approved Infrastructure Improvements Plan.

Open space: A category of capital facilities including but not limited to natural areas, other lands, trails, and improvements designed to provide access to desert preserves and mountain parks.

Parks and Trails: A category of capital facilities including but not limited to neighborhood, community and district parks and related facilities and equipment; aquatics facilities; neighborhood, community, adult, teen and multi-generation centers, and public trails.

Plan-based cost per EDU: The total future capital costs listed in the infrastructure improvements plan for a capital facility category divided by the total new equivalent dwelling units projected in that area for that facility category over the same time period.

Police: A category of capital facilities including but not limited to police precinct and briefing stations and related equipment and vehicles, and police communications facilities.

Public and quasi-public: A category of nonresidential land uses that includes private schools, hospitals, religious facilities, day care centers and other similar uses.

Religious facility: A facility for public worship services such as a church, synagogue, mosque, or temple which may include an assembly hall, sanctuary, meeting rooms, classrooms, and kitchen. Day care centers, open to the public, elementary schools or high schools operating on the site of a religious facility shall be considered primary uses and not part of the religious facility.

Retail:: A category of nonresidential land uses that includes general retail, retail centers, specialty retail, discount stores, car sales, supermarkets, convenience markets, service stations, banks and savings and loans, motion picture theaters, lodging, hotel/motel, resorts and similar commercial uses not elsewhere classified in other land use categories in the fee schedule.

Retail center: A site on which three or more commercial establishments are located which share a common parking facility. In addition, the site may contain incidental offices, services, financial establishments, restaurants, bars, lounges and recreation establishments. A retail center may contain one or more buildings and businesses located in freestanding buildings or within integrated multi-tenant structures. Day care centers are not considered part of a retail center for the purpose of administering the Roadway Facilities development impact fee.

Roadway Facilities: A category of capital facilities including bridges, culverts, irrigation tiling, storm drains, and regional transportation facilities. This capital facility does not include costs for arterial street construction or arterial street right-of-way, except for when construction of an otherwise qualifying capital facility requires transitional pavement construction and/or ROW acquisition.

Single-family dwelling unit: Detached or attached dwelling units including one-unit structures designed or used as separate living quarters including structures detached from any other house and structures with primary ground floor access to the outside and structures with one or more walls extending from ground to roof separating them from adjoining structures.

Solid waste disposal: A category of capital facilities including but not limited to landfills, transfer stations with related equipment and vehicles, and materials recycling facilities.

Specific Infrastructure Financing Plan: a single, coordinating document consisting of all Impact Fee Studies and Infrastructure Improvements Plans required for each capital facility category, which is approved by City Council and provides the basis for the Development Impact Fees adopted as Section 29-7 of this Ordinance.

Square feet or square footage: A conversion factor used in calculating equivalent dwelling units. The square footage of a building as listed in the construction permit shall be used.

Standard density multifamily dwelling: Multifamily dwelling with more than four dwelling units per structure.

Storm drainage: A category of capital facilities including but not limited to storm sewers constructed in sizes needed to provide for stormwater management for areas beyond major street projects and stormwater detention basins and channels necessary to provide for proper stormwater management.

Subject Development: A land area for which impact fees are calculated together and not divided into separate fee calculations for individual parcels. The land area must be contiguous unless a development agreement is executed in accordance with Section 29-9.

Time share: A category of residential land use designed for occupancy by transients or as a residence for periods of less than one month. For purposes of this ordinance, timeshares shall be considered commercial for the roadway facilities, parks and open space facility categories. For equipment repair, fire, library and police categories they shall be considered as multifamily.

Unified plan of development: A plan acceptable to the Planning Director such as a subdivision, site plan, planned community district or specific plan covering a contiguous area served by capital facilities provided by a common entity.

University: An institution of higher learning offering bachelors and higher degrees. The site may contain athletic, dining, assembly, housing and recreation facilities.

Warehouse: A category of land use primarily devoted to the storage of materials. Warehouses may also include office and maintenance areas. The office use may not be more than fifty percent of the square footage of the structure.

Wastewater: A category of capital facilities including but not limited to sewers, lift stations, reclamation plants, wastewater treatment plants and related equipment and facilities.

Water: A category of capital facilities including but not limited to those facilities necessary to provide for water use such as water production facilities and equipment including water treatment plants, wells, booster stations and reservoirs and water distribution facilities and equipment including water mains and valves, but excluding Water Resource Projects as defined in Section 30-3.

Sec. 29-4. Applicability.

Except as provided below, this ordinance shall apply to all development within any impact fee service area of the City of Phoenix at such time as a Specific Infrastructure Financing Plan for that service area has been adopted pursuant to Section 29-5. This ordinance shall not apply to the development of any public school or City of Phoenix facility located within any service area or to any development having an infill housing program contract or located in an infill incentive district.

Sec. 29-5. Required Documentation and Process for Review and Approval.

A. Specific Infrastructure Financing Plan

Prior to assessment of a new or modified development impact fee in a fee service area, the City shall prepare adopt or amend a Specific Infrastructure Financing Plan. The Specific Infrastructure Financing Plan shall consist of two sections for each category of capital facility: an Impact Fee Study, and an associated Infrastructure Improvements Plan.

1. The Specific Infrastructure Financing Plan shall be prepared, adopted, and/or amended in accordance with Section 403 of the Zoning Ordinance.
2. The Planning Department shall prepare the Specific Infrastructure Financing Plan for adoption and/or amendment in conjunction with all affected City departments, per the scheduling procedures outline in Section 29-12.
3. Impact Fee Study.
 - a. The Impact Fee Study shall be prepared in accordance with Section 9-463.05.C, Arizona Revised Statutes.
 - b. The Impact Fee Study shall recommend an impact fee structure, which shall not exceed the Plan-Based Costs as determined in the associated Infrastructure Improvements Plan. The actual impact fees to be assessed are as provided in Section 29-7, Development Impact Fee Schedules.
 - c. The Impact Fee Study shall recommend an index or indices to be used for automatic adjustment of the development impact fee(s), and propose timing of those adjustments. The actual indices and timing of the adjustments shall be as provided in Section 29-13, Automatic Adjustment.
4. Infrastructure Improvements Plan.
 - a. The Infrastructure Improvements Plan shall be prepared in accordance with Section 9-463.05.D, Arizona Revised Statutes.
 - b. The Infrastructure Improvements Plan shall determine the extent of capital facilities needed to serve the anticipated future development of the service area consistent with the Phoenix General Plan.
 - c. The Infrastructure Improvements Plan shall specify needs for one or more of the following categories of capital facilities:

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|------------------------|---------------------------------|
| 1. Roadway Facilities; | 7. Drainage |
| 2. Parks and Trails; | 8. Solid Waste; |
| 3. Open Space; | 9. Equipment Repair Facilities; |
| 4. Fire Protection; | 10. Water; |
| 5. Police; | 11. Wastewater. |
| 6. Libraries; | |

- d. The Infrastructure Improvements Plan(s) shall analyze only the previously-stated capital facility categories. No development impact fees shall be charged, or development impact fee credits issued, for any capital facility which does not fall into one of the capital facility categories identified in subsection c.
- e. The Infrastructure Improvements Plan shall determine the needs for each capital facility category based on the provision of an equivalent level of service for that category being required in the other fee service areas of the City included in the Specific Infrastructure Financing Plan, or a City-wide level of service when facilities are centralized in such a way that no other level of service can be determined.
- f. The Infrastructure Improvements Plan shall establish the level of service and estimate the total cost for capital facilities including land acquisition, studies leading to design, design, construction, financing, and administrative costs, but shall not include costs for ongoing operation and maintenance, nor for replacement to the extent that replacement facilities do not increase service capacity.
- g. The Infrastructure Improvements Plan shall project the number of equivalent dwelling units for all applicable development within the service area based on the General Plan and studies pursuant thereto; however, projected capital facility costs shall be allocated to equivalent dwelling units for all new development projected to be constructed within the service area.
- h. The Infrastructure Improvements Plan shall forecast the costs of infrastructure, improvements, real property, financing, other capital costs and associated appurtenances, equipment, vehicles, furnishings and other personalty that will be associated with meeting those future needs for necessary public services.
- i. The Infrastructure Improvements Plan shall forecast the revenue sources that will be available to fund the necessary public services and estimate the time required to finance and provide the necessary public services.
- j. The Infrastructure Improvements Plan shall calculate the plan-based cost per EDU (“Plan-Based Cost”) by dividing the projected cost for a capital facility category in a service area by the number of new EDUs projected for the facility category in the service area over the same period of time.
- k. The Infrastructure Improvements Plan shall analyze the existing level of service (LOS) for each capital facility in each fee service area for a comparable area (such as the developed portion of the same fee service area; a similar fee service area; or the entire City, if appropriate).
- l. The Infrastructure Improvements Plan shall then compare the existing LOS to the future LOS (the LOS which would result from construction of the capital facility improvements proposed) for each capital facility category in each fee service area. If the existing LOS is higher than the future LOS, the Plan-Based Costs will be

recommended as the basis for the impact fee. If the existing LOS is lower than the future LOS, the impact fee structure recommended shall not exceed a cost per EDU required to provide the existing LOS to the fee service area.

5. More than one Impact Fee Study and associated Infrastructure Improvements Plan may exist within the Specific Infrastructure Financing Plan, so long as no more than one of each is provided for each capital facility category. Similarly, multiple capital facility categories may be included in a single Impact Fee Study and its associated Infrastructure Improvements Plan.

B. Development Impact Fee Ordinance

This chapter, known as the Development Impact Fee Ordinance, shall provide the framework for adoption and implementation of the Development Impact Fee Ordinance. All development impact fees, credits, reimbursements, or similar must be administered in accordance with the provisions of this Ordinance.

1. Changes to impact fees which arise from an amendment to the Specific Infrastructure Financing Plan shall be effective upon adoption of a text amendment to reflect the updated fees in Section 29-7 of this ordinance. Any such text amendment may occur subsequent to or concurrent with an amendment to the Specific Plan.
2. Changes to impact fees which arise from an automatic adjustment as permitted per Section 29-13 do not require a text amendment prior to implementation of the adjusted fees. However, a text amendment may be processed after the fees have gone into effect in order to keep the fee schedules in Section 29-7 consistent.

Sec. 29-6. Administration of Development Impact Fees.

- A. The Development Impact Fee program shall be administered by the Planning and Development Services Departments of the City of Phoenix.
- B. There shall be a non-refundable development impact fee program administrative charge equal to one (1) percent of the assessed gross impact fee. The administrative charge is not a development impact fee, and cannot be reduced by any impact fee credits.
- C. Development impact fees and the administrative charge shall be paid as follows:
 1. If construction permits for buildings or water or sewer connections are required, the applicable fees shall be paid at the time of the issuance of the construction permits for the development. No construction permit shall be issued until any applicable development impact fee has been paid. If the construction permit is for an expansion of an existing use or a change to a different use type, the fee shall be assessed only for the additional impacts of the expansion or change. The development impact fee shall be assessed using the fees in effect at the time the construction permit is issued.

2. Wastewater and water development impact fees shall be paid at the time of connection to the City of Phoenix sewer or water system. If no permit for construction of a building is required, a wastewater development impact fee shall be paid prior to approval of a connection of a use which discharges, or as determined by the Water Services Director is capable of discharging sewage to a public sewer. A water development impact fee shall be paid upon approval of setting of a water meter. However, fees shall not be required if the sewer connection or water meter is to serve a public right-of-way or other City of Phoenix facility or if the connection is being made to a building constructed before October 21, 1987. The wastewater or water development impact fee shall be assessed using the fees in effect at the time the connection is approved.
- D. Development impact fees collected pursuant to these regulations shall be placed in separate, interest-bearing accounts for each capital facility category within each service area.
 - E. Development impact fees and any interest thereon collected pursuant to these regulations shall be spent for improvements that provide a beneficial use to the development that paid the fee, including debt service costs that relate to such improvements.

Sec. 29-7. Development Impact Fee Schedules.

A. Roadway Facilities, Parks and Trails, and Open Space Development Impact Fees

Each new development within a service area for which an infrastructure improvements plan has been adopted for Roadway Facilities, Parks and Trails, and Open Space shall be assessed a development impact fee as outlined below.

1. Calculation of the Roadway Facilities Development Impact Fee

The Roadway Facility Development Impact Fee for a development is calculated by determining the total Gross Fee, subtracting the applicable Offsets, and adding the 2% Supplemental Funding for Arterial Streets. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the table below. This result is the **Total Gross Fee**.
- c. Multiply the number of units by the appropriate Offset stated in the table below. This result is the **Total Offset**.
- d. Subtract the Total Offset from the Total Gross Fee. This result is the **Net Impact Fee**.
- e. Multiply the Net Impact Fee by .02, and add it to the Net Impact Fee. This result will be assessed as the **Roadway Facilities Development Impact Fee**.
- f. Credits, if applicable, may be applied to the Roadway Facilities Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Table A-1: Roadway Facilities Development Impact Fee Schedule

Land Use ¹	Unit ²	Gross Fee per Unit ³				Offset per Unit	EDU Factor (EDU's per Unit)
		North Gateway Service Area	Desert View Service Area	Estrella Laveen Service Area	Ahwatukee West Service Area		
Single-Family Detached	Dwelling	\$3,981	\$1,837	\$2,155	\$2,398	\$564	1.00
Multi-Family	Dwelling	\$2,747	\$1,268	\$1,487	\$1,655	\$389	0.69
Mobile Home/RV Park	Space	\$2,070	\$955	\$1,121	\$1,247	\$293	0.52
Retail	1000 sq. ft.	\$6,091	\$2,811	\$3,297	\$3,669	\$863	1.53
Lodging, Hotel/Motel, Resort	Room	\$1,354	\$625	\$733	\$815	\$192	0.34
Office/Institutional	1000 sq. ft.	\$4,180	\$1,929	\$2,263	\$2,518	\$592	1.05
Religious Facility	1000 sq. ft.	\$2,070	\$955	\$1,121	\$1,247	\$293	0.52
Day Care Center	1000 sq. ft.	\$3,384	\$1,561	\$1,832	\$2,038	\$479	0.85
Elementary School, Private	1000 sq. ft.	\$2,906	\$1,341	\$1,573	\$1,751	\$412	0.73
High School, Private	1000 sq. ft.	\$3,424	\$1,580	\$1,853	\$2,062	\$485	0.86
Hospital	1000 sq. ft.	\$5,932	\$2,737	\$3,211	\$3,573	\$840	1.49
Nursing Home	1000 sq. ft.	\$2,070	\$955	\$1,121	\$1,247	\$293	0.52
Industrial and Manufacturing	1000 sq. ft.	\$2,548	\$1,176	\$1,379	\$1,535	\$361	0.64
Warehouse	1000 sq. ft.	\$2,110	\$974	\$1,142	\$1,271	\$299	0.53
Mini Warehouse	1000 sq. ft.	\$796	\$367	\$431	\$480	\$113	0.20
Arizona Highway User Revenue (AHUR) Offset					\$302 per EDU		
Secondary Property Tax Offset					\$262 per EDU		
Supplemental Funding for Arterial Streets					2% of Net Impact Fee		

1. To determine the fee for a wholesale nursery or landscape contractor, golf course, university, agricultural use, bus depot, indoor or outdoor arena, core land use, or any other land use at the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. When square footage is stated in the Unit column, it refers to the gross square footage of the building(s).
3. Fees shall be phased in as follows:
 - a. 25% of the Net Impact Fee shall be assessed through September 5, 2010.
 - b. 50% of the Net Impact Fee shall be assessed from September 6, 2010 through March 6, 2011.
 - c. 75% of the Net Impact Fee shall be assessed from March 7, 2011 through September 4, 2011.
 - d. 100% of the Net Impact Fee shall be assessed from September 5, 2011 onward.

2. Calculation of the Parks and Trails Development Impact Fee

The Parks and Trails Development Impact Fee for a development is calculated by determining the total Gross Fee and subtracting the applicable Offsets. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the table below. This result is the **Total Gross Fee**.
- c. Multiply the number of units by the appropriate Offset stated the table below. This result is the **Total Offset**.
- d. Subtract the Total Offset from the Total Gross Fee. This result is the **Net Impact Fee**, and will be the assessed **Parks and Trails Development Impact Fee**.
- e. Credits, if applicable, may be applied to the Parks and Trails Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Table A-2: Parks and Trails Development Impact Fee Schedule							
Land Use ¹	Unit	Gross Fee per Unit ^{2,3}				Offset per Unit	EDU Factor (EDU's per Unit)
		North Gateway Service Area	Desert View Service Area	Estrella Laveen Service Area	Ahwatukee Service Area		
Single-Family Detached	Dwelling	\$5,704	\$4,542	\$3,667	\$3,635	\$1,632	1.00
Multi-Family	Dwelling	\$2,722	\$2,304	\$1,989	\$1,902	\$1,240	0.76
Mobile Home/RV Park	Space	\$2,993	\$2,540	\$2,199	\$2,183	\$1,387	0.85
Sales Tax Offset					\$1,239 per EDU		
Secondary Property Tax Offset					\$393 per EDU		

1. At the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. The values for Gross Fee per Unit were reduced from the full cost values calculated in the adopted Impact Fee Study by City Council at time of adoption of this Ordinance. The amounts by which the fees were reduced vary by service area and fee type.
3. Fees may be different than indicated in the table due to annual Automatic Adjustments per Section 29-13.

3. Calculation of the Open Space Development Impact Fee

The Open Space Development Impact Fee for a development is calculated by determining the total Gross Fee and subtracting the applicable Offsets. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the table below. This result is the **Total Gross Fee**.

- c. Multiply the number of units by the appropriate Offset stated in the table below. This result is the **Total Offset**.
- d. Subtract the Total Offset from the Total Gross Fee. This result is the **Net Impact Fee**, and will be the assessed **Open Space Development Impact Fee**.
- e. Credits, if applicable, may be applied to the Open Space Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Table A-3: Open Space Development Impact Fee Schedule				
Land Use ¹	Unit	Gross Fee per Unit ^{2, 3}		EDU Factor (EDU's per Unit)
		Northern Service Area	Offset per Unit	
Single-Family Detached	Dwelling	\$1,142	\$34	1.00
Multi-Family	Dwelling	\$838	\$26	0.76
Mobile Home/RV Park	Space	\$986	\$29	0.85
Secondary Property Tax Offset			\$34 per EDU	

1. At the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. The values for Gross Fee per Unit were reduced from the full cost values calculated in the adopted Impact Fee Study by City Council at time of adoption of this Ordinance. The amounts by which the fees were reduced vary by service area and fee type.
3. Fees may be different than indicated in the table due to annual Automatic Adjustments per Section 29-13.

B. Fire, Police, Library, and Drainage Development Impact Fees

Prior to July 1, the calculation of the Fire, Police, Library, and Drainage development impact fees shall be as stated in Section 29-7.C of this Ordinance. Beginning July 1, 2011, the calculation of the Fire, Police, Library, and Drainage development impact fees shall be as stated in this Section, 29-7.B:

1. Calculation of the Fire Development Impact Fee.

The Fire Development Impact Fee for a development is calculated by determining the total Gross Fee, and subtracting the applicable Offsets. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the table below. This result is the **Total Gross Fee**.
- c. Multiply the number of units by the appropriate Offset stated in the table below. This result is the **Total Offset**.
- d. Subtract the Total Offset from the Total Gross Fee. This result is the **Net Impact Fee**, and will be the assessed **Fire Development Impact Fee**.
- e. Credits, if applicable, may be applied to the Fire Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Table B-1: Fire Development Impact Fee Schedule (effective July 1, 2011)						
Land Use ¹	Unit ²	Gross Fee per Unit ³			Offset per Unit	EDU Factor (EDU's per Unit)
		Northern Service Area	Estrella Laveen Service Area	Ahwatukee Service Area		
Single-Family Detached	Dwelling	\$414	\$396	\$458	\$86	1.00
Multi-Family	Dwelling	\$315	\$301	\$348	\$65	0.76
Mobile Home/RV Park	Space	\$352	\$337	\$389	\$73	0.85
Retail/Commercial	1000 sq. ft.	\$228	\$218	\$252	\$47	0.55
Office	1000 sq. ft.	\$261	\$249	\$289	\$54	0.63
Public/Institutional	1000 sq. ft.	\$253	\$242	\$279	\$52	0.61
Industrial/Warehouse	1000 sq. ft.	\$203	\$194	\$224	\$42	0.49
Secondary Property Tax Offset				\$86 per EDU		

1. To determine the fee for a wholesale nursery or landscape contractor, golf course, university, agricultural use, bus depot, indoor or outdoor arena, core land use, or any other land use at the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. When square footage is stated in the Unit column, it refers to the gross square footage of the building(s).
3. Fees may be different than indicated in the table due to annual Automatic Adjustments per Section 29-13.

2. Calculation of the Police Development Impact Fee

The Police Development Impact Fee for a development is calculated by determining the total Gross Fee. No offsets are applicable to the Police Development Impact Fee. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the below. This result is the **Total Gross Fee**, and will be the assessed **Police Development Impact Fee**.
- c. Credits, if applicable, may be applied to the Police Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Table B-2: Police Development Impact Fee Schedule (effective July 1, 2011)					
Land Use ¹	Unit ²	Gross Fee per Unit ³			EDU Factor (EDU's per Unit)
		Northern Service Area	Estrella Laveen Service Area	Ahwatukee Service Area	
Single-Family Detached	Dwelling	\$209	\$209	\$209	1.00
Multi-Family	Dwelling	\$159	\$159	\$159	0.76
Mobile Home/RV Park	Space	\$178	\$178	\$178	0.85
Retail/Commercial	1000 sq. ft.	\$115	\$115	\$115	0.55
Office	1000 sq. ft.	\$132	\$132	\$132	0.63
Public/Institutional	1000 sq. ft.	\$127	\$127	\$127	0.61
Industrial/Warehouse	1000 sq. ft.	\$102	\$102	\$102	0.49

1. To determine the fee for a wholesale nursery or landscape contractor, golf course, university, agricultural use, bus depot, indoor or outdoor arena, core land use, or any other land use at the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. When square footage is stated in the Unit column, it refers to the gross square footage of the building(s).
3. Fees may be different than indicated in the table due to annual Automatic Adjustments per Section 29-13.

3. Calculation of the Library Development Impact Fee

The Library Development Impact Fee for a development is calculated by determining the total Gross Fee and subtracting the applicable Offsets. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the table below. This result is the **Total Gross Fee**.
- c. Multiply the number of units by the appropriate Offset stated in the table below. This result is the **Total Offset**.
- d. Subtract the Total Offset from the Total Gross Fee. This result is the **Net Impact Fee**, and will be the assessed **Library Development Impact Fee**.
- e. Credits, if applicable, may be applied to the Library Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Land Use ¹	Unit	Gross Fee per Unit ²				Offset per Unit	EDU Factor (EDU's per Unit)
		North Gateway Service Area	Desert View Service Area	Estrella Laveen Service Area	Ahwatukee Service Area		
Single-Family Detached	Dwelling	\$299	\$322	\$202	\$393	\$156	1.00
Multi-Family	Dwelling	\$228	\$245	\$154	\$299	\$119	0.76
Mobile Home/RV Park	Space	\$254	\$245	\$172	\$334	\$133	0.85
Secondary Property Tax Offset						\$156 per EDU	

1. At the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. Fees may be different than indicated in the table due to annual Automatic Adjustments per Section 29-13.

4. Calculation of the Drainage Development Impact Fee

The Drainage Development Impact Fee for a development is calculated by determining the total Gross Fee and subtracting the applicable Offsets. Specific calculations are as follows:

- a. In the table below, find the Unit measurement which applies to the use for which the Impact Fee is being calculated, and use it to determine how many units are within the development for which the fee is being calculated.
- b. Multiply the number of units by the appropriate Gross Fee per Unit stated in the table below. This result is the **Total Gross Fee**.
- c. Multiply the number of units by the appropriate Offset(s) stated in the table below. This result is the **Total Offset**.
- d. Subtract the Total Offset from the Total Gross Fee. This result is the **Net Impact Fee**, and will be the assessed **Drainage Development Impact Fee**.
- e. Credits, if applicable, may be applied to the Drainage Development Impact Fee using the EDU factor(s) stated below, as further detailed in section 29-8.

Land Use ¹	Unit	Gross Fee per Unit ²		Offset per Unit ³ (Estrella)	Offset per Unit ³ (Laveen)	EDU Factor (EDU's per Unit)
		Estrella Service Area	Laveen Service Area			
Single-Family Detached	Dwelling	\$864	\$714	\$22	\$362	1.00
All other uses	¼ acre of gross site area	\$864	\$714	\$22	\$362	1.00
Secondary Property Tax Offset						\$22 per EDU
Outside Funding Credit (Laveen service area only) ²						\$340 per EDU

1. At the option of the applicant or the direction of the Planning Director, the EDU Factor used to calculate the fee may be determined pursuant to an independent impact analysis, pursuant to the provisions in Section 29-7.D.
2. Fees may be different than indicated in the table due to annual Automatic Adjustments per Section 29-13.
3. Outside Funding Credit applies in the Laveen service area only. See approved Specific Infrastructure Financing Plan for details of fee methodology.

C. Calculation of the Water, Wastewater, Solid Waste, and Equipment Repair Development Impact Fees, and (prior to July 1, 2011) calculation of the Fire, Police, Library, and Drainage Impact Fees.

The Water, Wastewater, Solid Waste, and Equipment Repair Development Impact Fees, and (prior to July 1, 2011) the Fire, Police, Library, and Drainage Impact shall be calculated and assessed per the following:

1. The infrastructure financing plan will determine the gross fee per EDU.
2. Determine the gross impact fee by multiplying the EDUs for each capital facility category by the gross fee per EDU listed in the specific infrastructure financing plan. Determine the total offsets per capital facility category by multiplying the EDUs for each capital facility by the alternative revenue offset (excluding the development occupational fee) for the particular use. Determine the project credit by multiplying the EDUs for each capital facility category by the credit per capital facility category. Credits per EDU are determined per Section 29-8.
3. Determine the net impact fee by subtracting from the gross impact fee per capital facility, the alternative revenue offsets per capital facility (including development occupational fees), and the credits per EDU. The net impact fee cannot be less than zero for any capital facility category.
4. EDU calculation methodologies: The equivalent dwelling units projected for a particular new development, for each use type and capital facility category shall be based on the provisions in Section 29-7.C.5, or an independent impact analysis prepared in accordance with Section 29-7.D. The base for the EDU table and the independent impact analysis shall be a single-family detached dwelling unit. The Planning Director shall maintain a report, available to the public, showing the EDU factors and their derivation.
 - a. Equipment repair facilities. EDU for equipment repair facilities shall be based on the proportion of the total services provided by service center offices, storage and vehicle maintenance facilities that is used by each of the city departments in the provision of fire, library, roadway facilities, park, police, solid waste, wastewater and water services and the use of a land use category of the fire, library, roadway facilities, park, police, solid waste, wastewater and water services. Services provided to one single-family dwelling unit shall be one EDU.
 - b. Fire protection. EDU for fire protection facilities shall be based on the average time spent on calls for fire protection services to various land use categories compared to the time spent on calls for one single-family dwelling unit. Average length of time spent per call for one single-family dwelling unit shall be one EDU.
 - c. Libraries. EDU for libraries shall be based on per capita use factors and the ratio of persons per dwelling unit to single-family per capita use factors and persons per single-family dwelling unit.
 - d. Police. EDU for police facilities shall be based on the average time spent on calls for police services to various land use categories. Average time spent per call for one single-family dwelling unit shall be one EDU.

- e. Solid waste disposal. Solid waste disposal service to one single-family dwelling unit and any other individually owned dwelling unit eligible for solid waste disposal service shall be one EDU.
- f. Storm drainage. Equivalent dwelling units (EDU) for major trunk storm sewers, storm detention basins and channels shall be based on one EDU for each standard density single-family dwelling unit and one EDU for each one quarter acre of gross site area for all other land use types.
- g. Wastewater facilities. Equivalent dwelling unit (EDU) for wastewater facilities shall be based on the number of net new drainage fixture units in the building for which the construction permit is being issued. All single-family units are deemed to be one EDU. EDU for other land uses are calculated as the number of drainage fixture units divided by 23.
- h. Water facilities. Equivalent dwelling units shall be based on water meter size as specified in the table below.

Meter Size (inches)	Meter Type	EDU for Single-Family Unit or Individually Metered Multifamily Unit	EDU for Multifamily Units Sharing Common Meters (any meter size)	EDU for All Other Users
5/8 x 3/4	Displacement or multi-jet	1	0.49 per MF Unit	1
3/4	Displacement or multi-jet	1		1.5
1	Displacement or multi-jet	1		2.5
1 1/2	Displacement or turbine	5		5
2	Displacement or turbine	8		8
3	Displacement	15		15
3	Compound	16		16
3	Turbine	17.5		17.5
4	Displacement or compound	25		25
4	Turbine	30		30
6	Displacement or compound	50		50
6	Turbine	62.5		62.5
8	Compound	80		80
8	Turbine	90		90

5. Use-specific EDU conversions shall be made in accord with the following:

- a. Equivalent dwelling units (EDU) for equipment repair facilities, fire protection, libraries, and police shall be based on the equivalent dwelling unit table for development impact fee calculation for use types listed in the table unless the use requires an independent impact analysis as provided in Section 29-7.D. Other uses not in the table shall be required to prepare an independent impact analysis as provided in Section 29-7.D.

- b. Equivalent dwelling units for solid waste disposal, storm drainage, and wastewater and water facilities shall be based on the calculation methodology in Section 29-7.C.4.

**EQUIVALENT DWELLING UNIT TABLE FOR DEVELOPMENT
IMPACT FEE CALCULATION**

Use Type	Conversion Unit	Capital Facility Category EDU per Unit			
		Equipment Repair	Fire Protection	Libraries	Police
SF Detached	DU	1.00	1.00	1.00	1.00
SF Attached	DU	1.00	1.00	0.49	1.00
MF 2 to 4 units in a structure	DU	0.42	0.68	0.55	0.42
MF Standard density	DU	0.42	0.68	0.43	0.42
Mobile home or recreational vehicle park	Space	0.42	0.68	0.46	0.42
Timeshare	DU except 1,000 sq. ft. for Libraries	0.42	0.68	0.18	0.42
Retail	1,000 sq. ft.	1.02	0.59	0.18	0.65
Office	1,000 sq. ft.	0.88	0.59	0.25	0.65
Industrial	1,000 sq. ft.	0.40	0.59	0.14	0.65
Nursery, wholesale or landscape contractor	Acre	Requires an independent impact analysis.			
Public, Quasi-Public	1,000 sq. ft.	0.30	0.59	0.11	0.65
Golf course	Acre	Requires an independent impact analysis.			
University	Student	Requires an independent impact analysis.			
Agriculture	Acre	Requires an independent impact analysis.			
Bus depot	1,000 sq. ft.	Requires an independent impact analysis.			
Indoor arena	Acre	Requires an independent impact analysis.			
Outdoor arena	Acre	Requires an independent impact analysis.			
Core land use	1,000 sq. ft.	Requires an independent impact analysis.			

- D. At the option of the applicant or the Planning Director, the equivalent dwelling units used to calculate the fee may be determined pursuant to an independent impact analysis if the type of proposed use is not within or comparable to the use type in the impact fee schedule or the Equivalent Dwelling Unit Table for Development Impact Fee Calculation in Section 29-7.C.4. If this option is chosen, the following shall apply:

1. The applicant shall be responsible for preparing the independent impact analysis, which shall be reviewed for approval by the Planning Director or his designee prior to payment of the impact fee.

2. The independent impact analysis shall measure the impact the proposed development will have on the capital facility categories included in the Specific Infrastructure Financing Plan, and shall be based on the same methodologies used in the calculation of the EDU in the Infrastructure Improvements Plan or the Equivalent Dwelling Unit Table for Development Impact Fee Calculation (whichever applies), and shall be supported by professionally acceptable data and assumptions.
3. After review of the independent impact analysis submitted by the applicant, the Planning Director or his designee shall accept or reject the analysis and provide written notice to the applicant of the decision. If an independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.
4. The final decision of the Planning Director or his designee may be appealed pursuant to Section 29-10.

Sec. 29-8. Development Impact Fee Credits and Credit Agreements.

A Development Impact Fee Credit is reduction in an assessed development impact fee resulting from developer contributions to, payments for, construction of, or dedications for capital facilities included in the Specific Infrastructure Financing Plan. All credits issued must comply with the following:

A. Eligibility of capital facility.

1. The capital facility provided, or the financial contribution toward a capital facility, must be identified in the adopted Specific Infrastructure Financing Plan (SIFP) as a necessary public facility; OR
2. The applicant must demonstrate to the satisfaction of the City department responsible for the capital facility category that, because of the class and type of improvement, the subject capital facility should have been included in the SIFP. If the subject capital facility is determined to be eligible for credit in this manner, the responsible City department must also agree that the subject facility will be identified as a necessary public facility in the next amendment to the Specific Infrastructure Financing Plan.
3. The capital facility provided must be located within, or provide direct service to, the impact fee service area within which the subject development is located.
4. The capital facility provided is not eligible for credits against impact fees if the credits are derived from any contribution, payment, construction, or dedication for which the developer is being paid or reimbursed by any City of Phoenix funding source.

B. Eligibility of subject development.

1. The subject development must be located within the impact fee service area which is served by the eligible capital facility.
2. The subject development must receive a direct benefit from the eligible capital facility, as determined by the City.

C. Calculation of credits.

Credits will be based on the costs for an eligible capital facility identified in the adopted Specific Infrastructure Financing Plan, and will not exceed the net impact fee calculated for the subject development for the applicable fee category, except where specifically permitted in the following circumstances:

1. The City may elect to approve credit values based on the applicant's actual costs incurred in providing the eligible capital facility, subject to the following restrictions:
 - a. The actual costs must be determined from the lowest bid in a public bid process; or
 - b. The actual costs must be determined from a minimum of three sealed bids provided by contractors acceptable to the City, or in the case of land acquisition, the amount indicated by an independent appraisal obtained by the City.
 - c. The costs of design, construction management, or similar shall not exceed the proportion allocated to the same type of costs in the approved SIFP.
 - d. Actual costs which exceed the equivalent costs stated in, or interpolated from, the approved Specific Infrastructure Financing Plan, may only be approved in a development agreement executed in accordance with Section 29-9.
2. The City may elect to approve alternative credit values for a partially completed eligible capital facility using one of the following methods:
 - a. Using facility component costs provided by the Planning Department and the department responsible for the capital facility category;
 - b. Using values interpolated from costs identified in the Specific Infrastructure Financing plan for the same type of capital facility; or
 - c. Using actual costs incurred pursuant to Section 29-8.C.1
3. The City may elect to approve alternative credit values for eligible public facilities which are over-sized by the City's request (such as booster or lift stations) and whose specifications do not match those stated in the Specific Infrastructure Financing Plan, using one of the following methods:
 - a. Using facility component costs provided by the Planning Department and the department responsible for the capital facility category;
 - b. Using values interpolated from costs identified in the Specific Infrastructure Financing plan for the same type of capital facility;

- c. Using actual costs incurred pursuant to Section 29-8.C.1, or
 - d. Using the value determined by subtracting the remaining completion costs for the eligible capital facility from the total amount specified for the facility in the Specific Infrastructure Financing Plan.
4. In the event that the fees adopted in Section 29-7 are less than the plan-based costs calculated in the adopted Specific Infrastructure Financing Plan, credits based on costs identified in the SIFP will be provided in a manner proportionate with the adopted fee structure. For example, if the adopted gross impact fee is only fifty percent of the plan-based cost calculated in the Specific Infrastructure Financing Plan, credits for facilities provided against that fee will be provided at only fifty percent of the value included in the SIFP for that type of facility. Credits calculated using other methods permitted by this Ordinance are not subject to the provisions of this paragraph.

D. Allocation of credits.

1. Before any credits can be issued to a subject development (or portion thereof), credits must be allocated to that development. For credits to be considered allocated, the developer and the City must execute a credit agreement regarding the following:
 - a. The total amount of the credits resulting from provision of an eligible capital facility;
 - b. The estimated number of EDU's to be provided within the subject development; and
 - c. The way in which the credit values will be distributed within the subject development.
2. It is the responsibility of the developer to request allocation of impact fee credits through application for a credit agreement (which may be part of a development agreement) with the City.
3. If a building permit is issued or a water/sewer connection is purchased, and an impact fee is paid prior to execution of a credit agreement for the subject development, no credits may be allocated retroactively to that permit or connection. Credits may be allocated to any remaining permits for the subject development in accordance with the rest of this Ordinance.
4. If the entity that provides an eligible capital facility sells or relinquishes a subject development (or portion thereof) that it owns or controls prior to execution of a credit agreement or development agreement, credits resulting from the eligible capital facility will only be allocated to the subject development if the entity legally assigns such rights and responsibilities to their successor(s) in interest for the subject development.
5. If multiple entities jointly provide an eligible capital facility, both entities must enter into a single credit agreement with the City, and any request for the allocation of credit within the subject development(s) must be made jointly by the entities that provided the eligible capital facility.

6. Excess credits (credits exceeding the actual impact fee due for a subject development) will be deemed waived, unless a development agreement is executed per Section 29-9 which states how and where the excess credits shall be allocated. Nothing in this paragraph requires the City to allocate or issue excess credits.
7. Credits may be reallocated from or within a subject development with approval of an amendment to an executed credit agreement, subject to all of the following conditions:
 - a. The entity who executed the original agreement with the City, or its legal successor in interest, is a party to the request for reallocation;
 - b. The entity who currently controls the subject development property is a party to the request for reallocation, and
 - c. The reallocation proposal does not change the value of any credits already issued within the subject development.

In the event that all of the conditions stated cannot be complied with, credits will remain allocated to the parcels as stated in the original agreement.

D. Credit Agreement.

An impact fee credit agreement is required to allocate credits to a subject development, and may be included as part of a development agreement.

1. General provisions.
 - a. An impact fee credit agreement requires approval of the Planning Director, the director(s) of the department(s) responsible for the eligible capital facilities, the City Attorney's Office, and the applicant(s).
 - b. A credit agreement alone is permissible to use as the instrument to allocate impact fee credits except in those situations where a development agreement is required, as stated in Section 29-9.
2. Process for approval.
 - a. The developer requesting the credit agreement shall provide all relevant information needed to determine the value of the credit to be applied.
 - b. An application for a credit agreement shall be initiated by the developer within one (1) year of acceptance of the eligible capital facility by the City. Notwithstanding the foregoing, developments that received final subdivision plat approval prior to May 18, 2009, may claim credits if they initiate an application for a credit agreement prior to May 18, 2010.
 - c. The developer shall submit a draft credit agreement to the Planning Director (or designee) for review, based upon a template that will be provided to the applicant by the City upon request. The draft credit agreement shall include the following information and supporting documentation:

- (1) A legal description and map depicting the location of the subject development for which credit is being applied;
 - (2) An estimate of the total EDUs that will be developed within the subject development depicted in the map and stated in the legal description;
 - (3) A list of the capital facilities, associated physical attributes, and the related costs as stated in the specific infrastructure financing plan;
 - (4) A map depicting the location of the facilities that have been or will be provided;
 - (5) Documentation showing the date(s) of acceptance by the City, if the capital facilities have already been provided;
 - (6) The total amount of credit to be applied within the subject development and the calculations leading to the total amount of credit;
 - (7) The credit amount to be applied to each EDU within the subject development, broken down by capital facility category;
 - (8) Signature lines for the Planning Director, the director of the department(s) responsible for the capital facilities, and the City Attorney; and
 - (9) Signature lines for the developer(s) and/or authorized agents.
- d. Upon receipt of the draft credit agreement, the Planning Director (or designee) shall route copies of the proposed agreement to the department(s) responsible for the public facilities for review. Upon completion of review, the department(s) shall provide comments back to the Planning Director, who will in turn provide comments and/or suggestions for revision to the applicant(s).
 - e. The City's determination of the total amount of credit to be allocated is final.
 - f. Upon execution of the final version of the credit agreement, credits are officially allocated to the subject development.

5. Process for amendment.

The process to amend a credit agreement shall be the same process as stated in 29-8.D.2, except that:

- a. The Planning Director may require only the documentation necessary to support the proposed amendment; and
- b. Any amendment must be initiated within two (2) years of final acceptance of the eligible capital facility for which the amendment is requested.
- c. Any credit agreement approved as part of a development agreement shall be amended in accordance with the terms of the development agreement, and Section 29-9 of this ordinance.

E. Issuance of credits.

1. Credits issued for an eligible capital facility may only be applied to the impact fee due for the applicable fee category, and may not be applied to any fee due for another category.
2. Credits shall only be issued if the subject development has been allocated credits through execution of a credit agreement as outlined in this Ordinance.

3. Credits shall only be issued if the eligible capital facility from which the credits were derived has been accepted by the City; or adequate security for the completion of the eligible capital facility has been provided in accordance with all terms of an executed development agreement.
4. Credits shall be issued in the following manner:
 - a. If compliance with Sections 29-8.E.2 and 29-8.E.3 are demonstrated, an impact fee due at the time a building permit is issued shall be reduced by the credit amount stated in or calculated from an executed credit agreement.
 - b. If compliance with either Section 29-8.E.2 or 29-8.E.3 is NOT demonstrated, an impact fee due at the time a building permit is issued shall be paid in full. A refund of the credit amount paid at the time the permit was issued shall be issued upon the written request of the entity which entered into the agreement with the City once compliance with both Sections 29-8.E.2 and 29-8.E.3 has been demonstrated.
5. Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that credits may be released for reuse on the subject development if a building permit for which the credits were issued has expired, and an application for a refund of the associated impact fees previously paid has been submitted in writing to the Development Services Department.

Sec. 29-9. Development Agreements.

Development agreements containing provisions regarding development impact fees, development impact fee credits, and/or disbursement of revenues from impact fee accounts shall comply with the following:

- A. A development agreement is required to authorize any of the following:
 1. To allocate a total credit value for an eligible capital facility which exceeds the equivalent costs identified in the adopted Specific Infrastructure Financing Plan;
 2. To issue credits prior to the City's acceptance of an eligible capital facility;
 3. To allocate credits to a parcel that is not contiguous with the subject development;
 4. To reimburse the developer of an eligible capital facility using funds from impact fee accounts, or
 5. To allocate different credit amounts per EDU to different parcels within a subject development.
- B. All development agreements shall be prepared and executed in accordance with A. R. S. 9-500.05, as well as the following:

1. A development agreement involving impact fees requires approval of the City Council, the Planning Director, the director(s) of the department(s) responsible for the eligible capital facilities, the City Attorney's Office, and the applicant(s).
 2. A signature line for the City Clerk (to attest to the City Council approval) shall be provided in addition to the other required signature lines.
 3. Except where specifically modified by this section, all provisions of Section 29-8 apply to any credit agreement or reimbursement plan authorized as part of a development agreement.
- C. A development agreement may authorize the issuance of credits prior to acceptance of an eligible capital facility by the City when the development agreement specifically states the form and value of the security (i.e. bond, letter or credit, etc.) to be provided to the City prior to issuance of any credits. The City shall determine the acceptable form and value of the security to be provided.
- D. A development agreement may authorize the allocation of credits to a non-contiguous parcel if:
1. The parcel is in the same fee service area as that served by the eligible capital facility;
 2. The parcel receives a direct benefit from the eligible capital facility; and
 3. The development agreement specifically states the value of the credits to be allocated to each parcel.
- E. The development agreement must specify how credits will be allocated amongst different parcels on a per-EDU basis, if the credits are not to be allocated evenly. If the development agreement is silent on this topic, all credits will be allocated evenly amongst all parcels on a per-EDU basis.
- F. Funds reimbursed to developers from impact fee accounts for construction of an eligible capital facility must be utilized in accordance with standard procedures for the use of City funds in construction or acquisition of capital facilities; specifically:
1. Construction expenditures must be based on public bids, unless the total cost of the work, excluding materials and equipment previously acquired by bid, does not exceed those guidelines as established in A.R.S. Title 34-201. Design, construction management and similar additional costs may be included as a percentage of total construction costs, if those percentage rates are the same or less than those assumed for similar facilities identified in the adopted Specific Infrastructure Financing Plan.
 2. Acquisition expenditures (for land and existing facilities) shall be based on an independent appraisal obtained by the City.
- E. Nothing in this section obligates the City to enter into any development agreement or to authorize any type of credit agreement or reimbursement plan permitted by this section.

Sec. 29-10. Appeals.

A final fee determination may be appealed in accordance with the following procedures:

- A. Appeals shall be limited to disputes regarding the calculation of the fees for the particular development, including adjustment of fees based on an independent impact analysis, and calculation of equivalent dwelling units for the particular development.
- B. Appeals shall be initiated on such written form as the Planning Department may prescribe, and submitted to the Planning Director for consideration.
- C. The Planning Director or his designee shall consider the appeal within fourteen calendar days of the filing of an appeal form.
- D. Appeals of the decision of the Planning Director or his designee shall be made within seven calendar days of the decision of the Planning Director upon which time a hearing officer shall be appointed by the City Council.
- E. The hearing officer appointed by the City Council shall consider the appeal of the Planning Director's decision within sixty (60) calendar days of filing of the appeal with the Planning Department.
- F. Appeal of the decision of the hearing officer shall be made to the City Council within seven days of the decision of the hearing officer.
- G. Building permits may be issued during the pendency of an appeal if the applicant pays the impact fee due at the time the appeal is filed. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered and a refund paid if warranted.

Sec. 29-11. Consideration at time of land use change.

- A. When considering applications for rezoning of land within a service area for which a Specific Infrastructure Financing Plan has been adopted, the City Council shall take into consideration the effect of the proposed rezoning on capital facility needs.
- B. When approving subdivisions of land, the consistency of the proposed improvements with any applicable Specific Infrastructure Financing Plan shall be taken into consideration.

Sec. 29-12. Annual review of the Specific Infrastructure Financing Plan.

- A. The Specific Infrastructure Financing Plan shall be reviewed annually; however only one-third of the fee categories are intended to be reviewed each year (resulting in a review of each fee category once every three years). The review shall address, but is not limited to, the following:

1. Development projections used;
 2. Service standards used;
 3. Capital facility needs identified;
 4. Capital facility costs (including unit costs);
 5. Indexing to evaluate land and construction costs.
 6. Equivalent dwelling unit factors;
 7. Offsets for new development;
 8. Revenues received from development impact fees and interest on impact fee accounts;
 9. Expenditures from impact fee accounts;
 10. Expenditures of revenues used for offsets in areas with impact fees;
 11. Program administration.
- B. The review shall be conducted as an amendment to the Specific Infrastructure Financing Plan per the procedures outlined in Section 29-5.
- C. At the discretion of the Planning Director and the department(s) responsible for the capital facility fee category, automatic adjustment of fee(s) on an annual basis pursuant to Section 29-13 may be performed in lieu of the annual review stipulated in this section.

Sec. 29-13. Automatic adjustment.

Unless otherwise directed by the City Council, the development impact fees contained in this chapter shall be automatically adjusted on an annual basis, subject to the following:

- A. The annual adjustment shall occur at the end of each calendar year, to become effective no sooner than 30 days after public notice of the adjustment has been provided.
- B. Each fee will be adjusted using the Engineering News Record Twenty-City Construction Cost Index in the following manner:
1. If the fee to be adjusted has not been previously adjusted pursuant to this section since its adoption, the fee adjustment shall be based upon the percentage change in the index since the date of the Council adoption hearing for the fee. However, a fee shall not be adjusted if the Council adoption hearing for the fee occurred within the same calendar year.
 2. If the fee to be adjusted has been previously adjusted pursuant to this section since its adoption, the fee adjustment shall be based upon the percentage change in the index since the date of the previous adjustment.
- C. The City Clerk shall maintain a file with current list of all adjusted fees until such time that Section 29-7 of this Ordinance is updated to reflect the automatically adjusted fee amounts.
- D. At the discretion of the Planning Director and the department(s) responsible for the capital facility fee category, automatic adjustment of fee(s) on an annual basis pursuant to this

section may be performed in lieu of an annual review as stipulated in Section 29-12 of this ordinance.