

CHAPTER 17

DEVELOPMENT IMPACT FEES

(1471,1790,1838,2100,2241,2356,2596,2658,2786,2909,3003,3041,3100,4706,5071)

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5-17-1: FINDINGS AND PURPOSE:

The City Council of Mesa, Arizona, finds that: (3502)

- (A) Both population and employment within the City continue to grow creating demands for new residential and nonresidential development. (3502)
- (B) New development often overburdens existing public facilities, including water and wastewater systems, parks, libraries, fire facilities and equipment, public safety facilities and equipment, and stormwater drainage systems. (3502,4234,4239,4240,5071)
- (C) The protection of the health, safety, and general welfare of the citizens of the City requires that the public facilities of the City be expanded and improved to meet the demands of new development. (3502)
- (D) Under the City's current laws, taxes, fees, utility charges, and other forms of revenue collected from new development do not generate sufficient funds to provide those public facilities required to serve the new development. (3502)
- (E) An equitable development impact fee system, as established by this chapter, enables the City to impose a more proportionate share of the costs of required improvements to the water and wastewater systems, parks, libraries, fire facilities and equipment, public safety facilities and equipment, and stormwater drainage systems on those developments that create the need. (3502,4039,4234,4239,4240,4706,5071)
- (F) All types of development that are not explicitly exempted from the provisions of this ordinance generate demand for the types of facilities for which impact fees are being imposed pursuant to this Chapter. (3502,3875,4039)

- (G) The Impact Fee Study, as defined herein, sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's public facilities, and for determining the cost of acquiring land and the cost of acquiring or constructing facilities and equipment necessary to serve new development. (3502,3875,4706,5071)
- (H) The assumptions and service levels referenced in the Impact Fee Study were those in existence at the time the Impact Fee Study was completed. (3502,3875,4039,4706)
- (I) The impact fees described in this Chapter are based on the Impact Fee Study, and do not exceed the costs of acquiring additional land and the costs of acquiring or constructing additional facilities or equipment required to serve the new developments that will pay the impact fees. (3502,3875,4039)
- (J) The types of improvements to each type of public facility considered in the Impact Fee Study will benefit all new development in the City, and it is therefore appropriate to treat the entire City as a single service area for purposes of assessing, collecting, and expending the impact fees for each type of facilities. (3502,3875,4039,4706)
- (K) There is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this Chapter and the impact fees that each such development will be required to pay. (3502,3875,4039,4706)
- (L) This Chapter creates a system by which impact fees paid by new developments will be used to expand the type of public facility for which the impact fee was paid, so that the new development that pays each impact fee will receive a corresponding benefit within a reasonable period of time after the impact fee is paid. (3502,3875,4039)
- (M) This Chapter creates a system under which impact fees shall not be used to cure existing deficiencies in public facilities. (3502,3875,4039)

5-17-2: AUTHORITY AND APPLICABILITY:

- (A) This Chapter is enacted pursuant to the City's general police power, the authority granted to the City by the Arizona State Constitution, and Section 9-463.05 of Arizona Revised Statutes. (3502,3875)
- (B) The provisions of this Chapter shall apply to all of the territory within the corporate limits of the City, and within the City's water and wastewater service areas. (3502,3875)
- (C) The city manager or his designee is authorized to make determinations regarding the application, administration and enforcement of this chapter. (4706)

5-17-3: INTENT:

- (A) The intent of this Chapter is to ensure that new development bears a proportionate share of the cost of improvements to the City's water and wastewater systems, parks, libraries, fire facilities and equipment, public safety facilities and equipment, and stormwater drainage systems; to ensure that the proportionate share for each type of public facility does not exceed the cost of providing that type of public facility to the new development that paid the impact fee; and to ensure that funds collected from new developments are actually used to construct public facilities that benefit such new developments. (3502,3875,4039,4234,4239,4240,5071)

- (B) It is not the intent of this Chapter to collect any money from any new development in excess of the actual amount necessary to offset demands generated by that new development for the type of public facility for which the impact fee was paid. (3502,3875,4039)
- (C) It is not the intent of this Chapter that any monies collected from any impact fee and deposited in an impact fee fund shall ever be commingled with monies from a different impact fee fund or ever be used for a type of public facility different from that for which the impact fee was paid. (3502,3875,4039,4706)

5-17-4: DEFINITIONS:

The following words and phrases, whenever used in this Chapter, shall have the meanings respectively ascribed to them in this Section unless from the context a different meaning is clearly intended: (3502,4039)

APPLICANT: A person who applies to the City for a permit. (4039)

BUILDING AREA: For fees assessed on the basis of square feet, building area shall be calculated as follows:

Building area shall include all areas within the surrounding exterior walls, measured to the outside of such walls, exclusive of vent shafts and courts. Building area shall also include areas of buildings within the horizontal projection of the roof or floor above, which do not have surrounding exterior walls but exceed three feet (3') in horizontal dimension. Building area shall also include basements, if provided, and outdoor patios without roofs for restaurants, bars or similar occupancies (per Chapter 4-2). (4706)

CHANGE IN USE: A development which modifies the housing type, meter size, or land use type applicable to the lot. (3547,3875,4039)

CONNECTION: The physical tie-in of a private water or wastewater service or system to the City's public water or wastewater system. (3502,3875)

DEVELOPMENT: Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land. (3502,4039)

DWELLING UNIT: A room or group of rooms within a building containing cooking accommodations and designed to be used for living purposes. The term dwelling unit shall include an apartment, but shall not include a hotel room, guest room in a boarding house, or other transient occupancy by any one (1) person or group of persons for a period of less than thirty (30) calendar days or accessory living quarters. (3502,4706)

HOTEL/MOTEL: As defined in Section 11-1-6 of the Mesa City Code. (3875)

HOUSING TYPE: The categories of housing types as set forth in Table 1 attached to this Chapter. (4039,4706)

IMPACT FEES: The water impact fee, wastewater impact fee, park impact fee, library impact fee, fire impact fee, public safety impact fee, and stormwater impact fee. (3502,4234,4239,4240,5071)

IMPACT FEE FUNDS: The water impact fee fund, wastewater impact fee fund, park impact fee fund, library impact fee fund, fire impact fee fund, public safety impact fee fund, and stormwater drainage impact fee fund. (3502,4234,4239,4240,5071)

IMPACT FEE STUDY: The *Impact Fee Study for the City of Mesa, Arizona* prepared by Duncan-Associates dated May, 2007. (3875,4039,4234,4239,4240,4706)

IMPACT FEE TABLES: Table 1 attached to this Chapter and included in this Chapter by reference. (3502,3875,5071)

IMPROVEMENT: Planning, land acquisition, engineering design, construction inspection, on-site construction, off-site construction, equipment purchases, and financing costs associated with new or expanded facilities, buildings, and equipment that expand the capacity of a key public facility. (3502)

KEY PUBLIC FACILITY: One (1) or more elements of the City's water and wastewater systems, parks, libraries, fire facilities, public safety facilities, and stormwater drainage systems included in the calculations of the development impact fees in the Impact Fee Study. (3502,3875,4234,4239,4240,5071)

LAND USE TYPE: The categories of land use type as set forth in Table 1 attached to this Chapter. (4039,4359,4706)

LOT: As defined in Section 11-1-6 of the Mesa City Code. (4039)

MANUFACTURED HOME: Same as "mobile home." A structure transportable in one (1) or more sections which, (1) in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet, (2) is built on a permanent chassis, and (3) is designed to be used as a dwelling, with or without permanent foundation, when connected to utilities. This term shall not include a recreational vehicle as defined in this Chapter. (3502,3875,4706)

METER SIZE: The category of meter size as set forth in Table 1 and Table 2 attached to this Chapter. (4039)

MULTI-RESIDENCE DWELLING: A dwelling unit in a building containing two (2) or more dwelling units, including units that are situated over one another, which are located within a Multiple Residence zoning district as outlined in Chapter 5, Title 11, Mesa City Code. (3502)

NON-RESIDENTIAL: All land uses, except single residence detached dwellings, single residence attached dwellings, multi-residence dwellings, manufactured homes, recreational vehicles or similar uses. (4706)

PERSON: Any person, partnership, firm, company, or corporation. (4039)

PERMIT: Any permit authorized to be issued pursuant to the provisions of Chapter 1, of Title 4 and Chapters 6 and 8 of Title 9 of the Mesa City Code. (4039,4706)

RECREATIONAL VEHICLE: A vehicle-type unit that is one (1) of the following: (1) a portable camping trailer mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold for camping; (2) a motor home designed to provide temporary living quarters for recreational, camping, or travel use, and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle; (3) a park trailer built on a single chassis, mounted on wheels, designed to be connected to utilities necessary for operation of installed fixtures and appliances, and having a gross trailer area of not less than three hundred twenty (320) square feet and not more than four hundred (400) square feet when it is set up, but excluding fifth wheel trailers; or (4) a travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, or a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle, and having a trailer area of less than three hundred twenty (320) square feet, and specifically including fifth wheel trailers. (3502,4706)

SINGLE-RESIDENCE ATTACHED DWELLING: A one- (1-) family dwelling in a row of at least two (2) such units in which each unit is separated from any other unit by one (1) or more vertical common fire-resistant walls extending from ground to roof, each unit has its own front and rear access to the outside, and no unit is situated over another unit. (3502)

SINGLE-RESIDENCE DETACHED DWELLING: A building containing one (1) dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards on all four (4) sides. This term shall include a manufactured home situated on a separately platted lot. (3502)

STORMWATER DRAINAGE IMPACT FEE MAP: The Stormwater Drainage Impact Fee Map attached to this Chapter and included herein. (4706)

SQUARE FEET: Each unit of building area equal to one hundred and forty-four (144) square inches. (3875,4234,4706)

5-17-5: IMPOSITION OF IMPACT FEES:

- (A) Impact Fees Required. Any person who obtains a building permit, a right-of-way permit, or any other permit, is required to pay the applicable water impact fee, wastewater impact fee, park impact fee, library impact fee, fire impact fee, public safety impact fee, and stormwater drainage impact fee unless the type of development described in the permit is specifically exempted by this Chapter. In addition, any person who seeks a connection to the City water system shall pay a water impact fee, and any person who seeks a connection to the City wastewater system shall pay a wastewater impact fee, regardless of whether the development to be connected requires a building permit or other permit. (3502,3875,4039, 4234,4239,4240,4706,5071)

- (B) Timing of Payment. Any person required by this Chapter to pay one (1) or more impact fees, shall pay each impact fee required by this Chapter to the City prior to, or in conjunction with, the issuance of any such permit, or prior to the completion of any connection to the City's water and wastewater systems; and no such permits shall be issued and no such connections shall be made until each impact fee required by this Chapter has been paid. All impact fees paid pursuant to this Chapter shall be promptly deposited in the appropriate impact fee funds described in Section 5-17-7. (3502,3875,4039,4706)
- (C) Calculation of Impact Fees from Impact Fee Tables.
1. The Building Safety Director shall determine the amount of each required impact fee through the use of the impact fee table set forth in this Chapter. (3502,3875,4706)
 2. Land Use Type. The Building Safety Director shall determine the land use type for each development based on the land use or land uses applicable to the lot to be developed in its entirety. If a lot consists of two (2) or more separate areas with different land uses applicable to each separate area, then the impact fee shall be determined by adding up all the fees that would be applicable for each land use type in each separate area. Determinations of the land use type by the Building Safety Director may be appealed to the City Manager or his designee. (3502,4039,4234,4706)
 3. Meter Size. The Building Safety Director shall determine the meter size for each lot based on the actual meter size installed on each lot. If the exact meter size is not listed in a table, then the City shall use the next largest meter size in such table. If a lot consists of two (2) or more separate areas with separate meters in each separate area, then the impact fee shall be determined by adding up all the fees that would be applicable for each meter size in each separate area. (3502,4039,4706)
 4. Calculation of Square Footage. In assessing the development impact fees for the nonresidential land use type, any determination of square footage shall be in whole units, with any fractions thereof being rounded up to the next square foot. (4234,4706)
 5. Existing development credits. Impact fees for development projects involving an addition to or remodeling of an existing facility, change of use, change of housing type, change of meter size or other modification or redevelopment of a previously developed lot or building with a valid certificate of occupancy shall be calculated as follows:

The applicable impact fees for each proposed housing type, land use type and meter size as set forth in the current impact fee tables minus the applicable impact fees for each existing or previous housing type, land use type and meter size as set forth in the current impact fee tables. Calculated amounts equal to or less than zero dollars (\$0.00) shall result in no additional impact fee for that specific impact fee or fees. Unused credit amounts shall not be refunded to the owner or applicant, but shall run with the land until utilized in full. (4706)
 6. If a manufactured home housing type is located on a separately platted lot, the impact fees shall be calculated as for single residence detached dwelling. If a manufactured home housing type is located on a recreational vehicle park space, the impact fees shall be calculated as for manufactured home/recreational vehicle. (4706)

5-17-6: EXEMPTIONS FROM IMPACT FEES:

- (A) General Exemptions. The following types of development shall be exempt from payment of specified impact fees otherwise due pursuant to this Chapter. Except for claim(s) resulting from unforeseen conditions, the Building Safety Director shall evaluate every permit application for applicability of the exemption criteria as follows: (3502,3547,3875,4039,4359,4706)
1. Facilities located within the City and owned by the City shall be exempt from payment of all impact fees. (3502,4706)
 2. Public schools and Charter Schools located within Mesa shall be exempt from payment of all impact fees in accordance with Arizona Revised Statutes, Section 9-500.18, except applicable water and wastewater impact fees. (4706)
 3. Water and wastewater impact fees shall not be charged for the installation of fire protection systems or lines, provided that such system or line is not served by a water meter. (3502,4039,4706)
 4. Separate water meters installed for irrigation purposes only shall not be included in the calculation of the wastewater impact fee. (3502,4706)
 5. Separate water meters installed for irrigation purposes only that meet one (1) of the following conditions shall not be included in the calculation of the water impact fee: (3502,4039,4706)
 - (a) Dwelling units for which applicable impact fees were assessed and paid on a dwelling-unit basis; or (3502,4039)
 - (b) Dwelling units for which first connection preceded the assessment of development fees; or (3502,4039)
 - (c) Residential subdivision developments where water meters are installed in common areas of said developments to provide landscape irrigation; or (4234)
 - (d) Commercial or industrial developments for which water development fees were assessed and paid prior to July 1, 1993; or (3502,4039,4234)
 - (e) Commercial or industrial developments for which first connection preceded the assessment of development fees. (3502,4039,4234)
 6. Separate water meters installed in a residential subdivision development that is: (4234,4706)
 - (a) Used for common amenities (i.e., swimming pools, clubhouses, recreation buildings, etc.) and (4234)
 - (b) Solely dedicated for the noncommercial use of the subdivision residents shall not be included in the calculation of the water impact fees when applicable impact fees for dwelling units were assessed and paid on a dwelling/unit or space/lot basis. (4234)

7. A development shall be exempt from stormwater drainage impact fees if the development is located within the areas of the "Stormwater Drainage Impact Fee Map" designated "exempt" from stormwater drainage impact fees. (4706)
 8. A development may be exempt from stormwater drainage impact fees if the development is located within the areas of the "Stormwater Drainage Impact Fee Map" designated as "potentially exempt" as determined by the Building Safety Director, provided: the development is not constructing a new or wider section or mid-section public street adjacent to or adjoining said development wherein new and/or additional stormwater runoff is being directed into facilities that are, or will be, maintained by the City of Mesa; and the development, by its hydrologic design, is not creating the need for construction of stormwater drainage facilities, beyond the lot boundaries of such development, to accommodate the transmission of historic stormwater flows through said development. Determinations of exemptions under this section by the Building Safety Director may be appealed to the City Manager or his designee. (4706)
- (B) Demonstration of No Additional Demand for Facilities. A development may be exempted from payment of specific impact fees otherwise due pursuant to this Chapter if the proposed development will produce no additional demand for a specific key public facility than were generated from such lot or location prior to the proposed development. The Building Safety Director shall evaluate every permit application for applicability of the demonstration of no additional demand for facilities for the types of impact fees pursuant to this Chapter. (3502,3875,4039,4359,4706)
- (C) Exemption Determination. The City Manager, or his designee, shall determine the validity of any claim for exemption pursuant to the criteria set forth in this Section. (3502,3766,3875,4039,4706)

5-17-7: IMPACT FEE FUNDS:

- (A) Creation of Impact Fee Funds. The following impact fee funds are hereby created as interest-bearing account distinct from the general fund of the City. (3502,3875)
1. Water Impact Fee Fund – designated as “022”; (3502)
 2. Wastewater Impact Fee Fund – designated as “023”; (3502)
 3. Park Impact Fee Fund – designated as “453”; (3502)
 4. (RESERVED) (5071)
 5. Library Impact Fee Fund – designated as “455”; (3502)
 6. Fire Impact Fee Fund – designated as “452”; (3502,4039)
 7. Public Safety Impact Fee Fund – designated as “451.” (3502,4234)

8. (RESERVED) (5071)
 9. Stormwater Drainage Impact Fee Fund - designated as "456." (4240)
- (B) Each such impact fee fund shall contain only those impact fees collected pursuant to this Chapter for the types of key public facilities reflected in the title of the fund plus any interest which may accrue from time to time on such amounts. (3502,3875,4039,4706)
- (C) The monies in each impact fee fund shall be used only: (3502,3875)
1. To acquire land for and/or acquire or construct key public facilities of the type reflected in the title of the fund and purchase capital equipment similar to that utilized in the fee calculations in the Impact Fee Study; (3502,3875,4234,4706)
 2. To pay debt service on any portion of any current or future general obligation bond issue or revenue bond issue used to finance key public facilities of the type reflected in the title of the fund; (3502)
 3. As described in Section 5-17-8 (refunds); or (3502)
 4. As described in Section 5-17-9 (credits). (3502)

5-17-8: REFUNDS OF DEVELOPMENT IMPACT FEES PAID:

- (A) The Building Safety Director is hereby authorized and directed to correct any error in the assessment and collection of impact fees detected within twenty-four months of the date of the payment of the impact fees, including assessing additional impact fee amounts or issuing a refund from the appropriate impact fee fund(s). (3502,4706)
- (B) If an applicant has paid an impact fee required by this Chapter and has obtained any of the types of permits listed in Section 5-17-5, and the permit for which the impact fee was paid later expires or is revoked, then the applicant who paid such impact fee shall be entitled to a refund of the impact fee paid, without interest. In order to be eligible to receive such refund, the applicant who paid such impact fee shall be required to submit a request for such refund within thirty (30) days after the expiration or revocation of the permit for which the impact fee was paid. (3502,3875,4039,4706)
- (C) After an impact fee has been paid pursuant to this Chapter, no refund of any part of such impact fee shall be made if the development for which the impact fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the size of the development, the number of units in the development, or the amount of traffic generated by the development. (3502,3875,4039)

5-17-9: CREDITS AGAINST IMPACT FEES:**(A) Credits Against Specific Types of Impact Fees. (3502)**

1. **Park Impact Fee Credits.** Credits against the park impact fees may be granted only for improvements to the City's park system. Dedications, construction, or acquisitions of key public facilities that may qualify for credits include dedication of land, grading of land; provision of utilities; construction of drainage, access, parking, lighting, signage, and other improvements necessary to a functioning park; and construction or installation of recreational facilities. If approved, qualifying private improvements shall be limited to the costs of recreational facilities, such as tennis courts and ballfields, that are, in the opinion of Mesa's Parks and Recreation Division Director, the functional equivalent of facilities that are provided in City parks and that could reasonably be expected to reduce the need for City facilities. The credits for these recreational facilities shall not include the costs of land, nor shall they include the costs of improvements, such as utilities, access, and parking, not directly associated with the recreational facilities. The maximum amount of the credits shall be based on the unit costs for the same kind of recreational facilities included in the Impact Fee Study or an updated list of unit costs that may be prepared by Mesa's Parks and Recreational Division for this purpose. (3502,3875)
2. **Oversize Water and Wastewater Improvements.** Credits shall not be issued for water and wastewater oversize improvements. Oversize improvements may be handled using development agreements as outlined in Sections 9-6-4(F) and 9-8-3(I) of the Mesa City Code. (3502,3547,4706)

(B) General Provision. After November 1, 1998, all mandatory or voluntary land dedications for key public facilities and all mandatory or voluntary acquisitions or constructions of key public facilities by an applicant in connection with a proposed development shall result in a credit against the impact fee for the same type of key public facility otherwise due for such development, except that no such credit shall be awarded for (1) land dedications for or acquisition or construction of site-related improvements, (2) voluntary land dedications not accepted by the City, (3) public utility and/or facility easements, or (4) voluntary acquisition or construction of key public facilities not approved in writing by the City prior to commencement of the acquisition or construction. (3502,3875,4039,4706)

(C) Credit for Prior Actions. Applicants may also obtain credits for land dedications for key public facilities, or for acquisition or construction of key public facilities completed prior to November 1, 1998, and may use such credits to reduce the impact fees due after the effective date of this ordinance for key public facilities of the same type within the same development for which the credits were issued. Application for such credits must be made, on forms provided by the City, within two (2) years after the effective date of this Chapter. In the event that the development for which the credits are claimed is partially completed, the amount of the credits shall be reduced by the amount of the impact fees for the same type of key public facility that would have been charged for the completed portion of the development had the impact fee ordinance been in effect. In the event that the development has been fully completed, no credits shall be issued. (3502,3875,4039)

(D) Procedure. In order to obtain a credit against an impact fee otherwise due, an applicant must submit a written offer to dedicate to the City specific parcels of qualifying land or to acquire or construct specific key public facilities in accordance with all applicable State or City design and construction standards, and must specifically request a credit against such impact fee. Such written request must be made on a form provided by the City, must contain a statement under oath of the facts that qualify the applicant to receive a credit, must be accompanied by documents evidencing those facts, and must be filed not later than the time when an applicant applies for the first permit of a type listed in Section 5-17-5(A) that creates an obligation to pay the type of impact fee against which the credit is requested, or the applicant's claim for the credit shall be waived. (3502)

(E) Calculation of Credit. The credit due to an applicant shall be calculated and documented as follows: (3502)

1. The value of land dedicated or donated shall, at the applicant's option, be valued at (a) one hundred percent (100%) of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) that fair market value based on the appraised land value of the parent parcel on the date of transfer of ownership to the City, as determined by a certified appraiser who was selected and paid for by the applicant, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the City may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two (2) appraisals. If either party rejects the average of the two (2) appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being shared equally by the property owner and the City. The third appraiser shall be selected by the first two (2) appraisers, and the third appraisal shall be binding on both parties. (3502)
2. In order to receive credit for qualifying acquisition or construction of key public facilities, the applicant shall submit complete engineering drawings, specifications, and construction cost estimates to the City. The City shall determine the amount of credit due based on the information submitted, or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the City. If the estimated credits are less than one hundred and twelve thousand dollars (\$112,000), the value of the credits will be determined using maximum unit costs based on current low bid results received on other projects through the City's public bidding process. If the estimated credits are one hundred and twelve thousand dollars (\$112,000) or more, the amount of the credit will be determined through the use of the City's public bidding process as required by Section 5-17-9(J) of the Mesa City Code. (3502,3547,4706)

(F) Effective Date. Approved credits shall become effective at the following times: (3502)

1. Approved credits for land dedications shall become effective when the land has been conveyed to the City in a form acceptable to the City and at no cost to the City and has been accepted by the City. When such conditions have been met, the City shall note that fact in its records. Upon request of the applicant, the City shall issue a letter stating the amount of credit available. (3502)
2. Approved credits for the acquisition or construction of key public facilities shall generally become effective when (1) all required construction has been completed and has been accepted by the City, (2) a suitable maintenance and warranty bond has been received and approved by the City, (3) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable City and State procedures. When such conditions have been met, the City shall note that fact in its records. Upon request of the applicant, the City shall issue a letter stating the amount of credit available. (3502,3875)

(G) Credits Used for Same Type of Facility. Approved credits may be used only to reduce the amount of impact fees due from the applicant for the same type of key public facility for which the applicant dedicated land or acquired or constructed a key public facility until the amount of the credit is exhausted. Approved credits shall not be paid to the applicant in cash or in credits against any impact fee for a different type of key public facility or against any other monies due from the applicant to the City, and shall not constitute a liability of the City, except as described in Section 5-17-9(I). Each time a request to use approved credits is presented to and approved by the City, the City shall reduce the amount of the applicable impact fee otherwise due from the applicant, and shall note in the City records the amount of credit remaining, if any. Upon request of the applicant, the City shall issue a letter stating the number of credits available. (3502)

- (H) Sale of the Development. In the event that the development for which credits have been issued is sold to different owners, the credits usable by each new owner shall be calculated in terms of a percentage of the impact fees that would otherwise be due from the entire development. If the total amount of development is not known, the maximum potential development under existing development regulations shall be assumed. This percentage reduction will be applied to all impact fees assessed within the development until the total amount of the credits is exhausted or the development is completed, whichever occurs first. In the event that the impact fee tables are amended to increase the fees prior to completion of the development, the percentage reduction shall be applied only to the impact fees that were in place at the time the credits were issued, and the adjusted impact fee to be charged shall be the sum of the reduced original impact fee plus the amount by which the fees were increased. (3502,4039)
- (I) Nontransferable. The right to claim credits shall run with the land and may be claimed only by owners of property within the development for which the land was dedicated or the key public facility of the same type was acquired or constructed. Credits issued for a particular development shall not be transferable to another development but may be transferred within the same development provided the transfer of the credits is outlined in a signed development agreement between the City and the original developer. (3502,3547,3875)
- (J) Cash Payments. If the amount of the credits exceeds the amount of impact fees otherwise due from the development, the applicant may request in writing that the City provide for reimbursement of any excess credits to the applicant in cash. Such written request must be filed not later than the time when an application is made for the first building permit required for the development, or the claim for the excess credit reimbursement shall be waived. Upon receipt of such written request, the City may, at its discretion, (1) arrange for the reimbursement of such excess credits from the appropriate impact fee fund, or (2) arrange for reimbursement of such excess credits through the issuance of a promissory note payable in not more than ten (10) years and bearing interest equal to the interest rate then earned by the City on its participation in the State Investment Pool. When the City chooses to arrange for reimbursement of excess credits from an impact fee fund, it will schedule the reimbursements as follows. If the total amount of the credit is less than one hundred and twelve thousand dollars (\$112,000), the City will issue a one-time payment after all land dedications giving rise to the credit have been accepted by the City and all key public facilities giving rise to the credit have been given final acceptance by the City. If the total amount of the credit is more than one hundred and twelve thousand dollars (\$112,000), the City will make monthly progress payments based on the percentage completion of the key public improvements giving rise to the credits, with each payment being made only after review and approval of appropriate documentation of the construction. (3502,4706)
- (K) Use of Public Bidding Process. If the estimated credits for acquisition or construction of key public improvements (other than land dedication) from any one development exceed one hundred and twelve thousand dollars (\$112,000), the developer shall be required to offer all such key public improvements through the public bidding process as administered by the City in order to receive a credit for such acquisition or construction. (3502,4706)
- (L) Expiration. Credits provided for dedication of land or for acquisition or construction of key public facilities meeting the requirements of this Section shall be valid from the effective date of such credits until ten (10) years after such date or until the last date of construction within the development for which the credits were issued, whichever occurs first. (3502,4039)

5-17-10: MISCELLANEOUS PROVISIONS:

- (A) Interest. Interest earned on monies in any impact fee fund shall be considered part of such fund, and shall be subject to the same restrictions on use applicable to the impact fees deposited in such fund. (3502)
- (B) First-In/First-Out Accounting. Monies in each impact fee fund shall be considered to be spent in the order collected, on a first-in/first-out basis. (3502)
- (C) Maintenance. Monies from any impact fee fund shall not be spent for periodic or routine maintenance of any facility of any type or to cure deficiencies in public facilities existing on November 1, 1998. (3502,3875,4039)
- (D) No Restriction on Development Conditions. Nothing in this Chapter shall restrict the City from requiring an applicant to construct reasonable project improvements required to serve the applicant's development, whether or not such improvements are of a type for which credits are available under Section 5-17-9. (3502,3875,4039)
- (E) Records. The City shall maintain accurate records of the impact fees paid, including the name of the person paying such impact fees, the development for which the impact fees were paid, the date of payment of each impact fee, the amounts received in payment for each impact fee, and any other matters that the City deems appropriate or necessary to the accurate accounting of such impact fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice. (3502,4039)
- (F) Assignment of Impact Fee Fund Monies. Upon request by the City Council, the City Manager, or his designee, shall present to the City Council a proposed capital improvements program for key public facilities scheduled for construction, and such capital improvements program shall assign monies from each impact fee fund to specific projects and related expenses for key public facilities of the type for which the fees in that fund were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended pursuant to Section 5-17-8 (refunds) or Section 5-17-9 (credits) shall be retained in the same impact fee fund until the next fiscal year. (3502,3766,3875,4706)
- (G) Administrative Costs. The City shall be entitled to retain not more than two percent (2%) of each impact fee collected as payment for the expenses of collecting the fee and administering this Chapter. (3502,3875,4706)
- (H) Mistake or Misrepresentation. If a development impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by an applicant shall be refunded by the City to the applicant within thirty (30) days after the City's acceptance of the recalculated amount, with interest since the date of such overpayment at the rate then earned by the City on its participation in the State Investment Pool. Any amounts underpaid by the applicant shall be paid to the City within thirty (30) days after the City's acceptance of the recalculated amount, with interest since the date of such underpayment at the rate then earned by the City on its participation in the State Investment Pool. In the case of an underpayment to the City, the City shall not issue any additional permits or approvals for the development for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the City are not paid within such thirty- (30-) day period, the City may also rescind any permits issued in reliance on the previous payment of such impact fee and refund such fee to the then current owner of the land. (3502,4039)

- (I) Discretion to Reduce Impact Fees. In order to promote the economic development of the City or the public health, safety, and general welfare of its residents, the City Council may agree to pay some or all of the impact fees imposed on a proposed development from other funds of the City that are not restricted to other uses. Any such decision to pay impact fees on behalf of an applicant shall be at the discretion of the City Council and shall be made pursuant to goals and objectives expressed by the City Council to promote such development. (3502,4039)
- (J) Appeals. Any determination made by any official of the City charged with the administration of any part of this Chapter may be appealed to the City Council by filing (1) a written notice of appeal, (2) a written explanation of why the appellant feels that a determination was in error. Appeals must be filed with the City Clerk within forty-five (45) days after the determination for which the appeal is being filed. A time and place for hearing the appeal shall be established, and the City Clerk shall mail notice of the hearing to the appellant at the address given. The hearing shall be conducted at the time and place stated in such notice. The determination of the City Council at the hearing shall be final. (3502,3547,3875)
- (K) Periodic Review. The impact fees and the administrative procedures established by this Chapter shall be reviewed at least once every three (3) fiscal years to ensure that (1) the demand and cost assumptions underlying such fees are still valid, (2) the resulting fees do not exceed the actual cost of constructing key public facilities of the type for which the fee was paid and that are required to serve new development, (3) the monies collected or to be collected in each impact fee fund have been or are expected to be spent for key public facilities of the type for which such fees were paid, and (4) that such key public facilities will benefit those developments for which the fees were paid. (3502,3875)
- (L) Annual Report. Within 90 days of the end of each fiscal year, the City shall file with the City Clerk an annual report accounting for the collection and use of the fees for each service area and shall post the report on its website in accordance with A.R.S. § 9-463.05(N) and (O), as amended. (3502,3547, 3875,4706,5071)

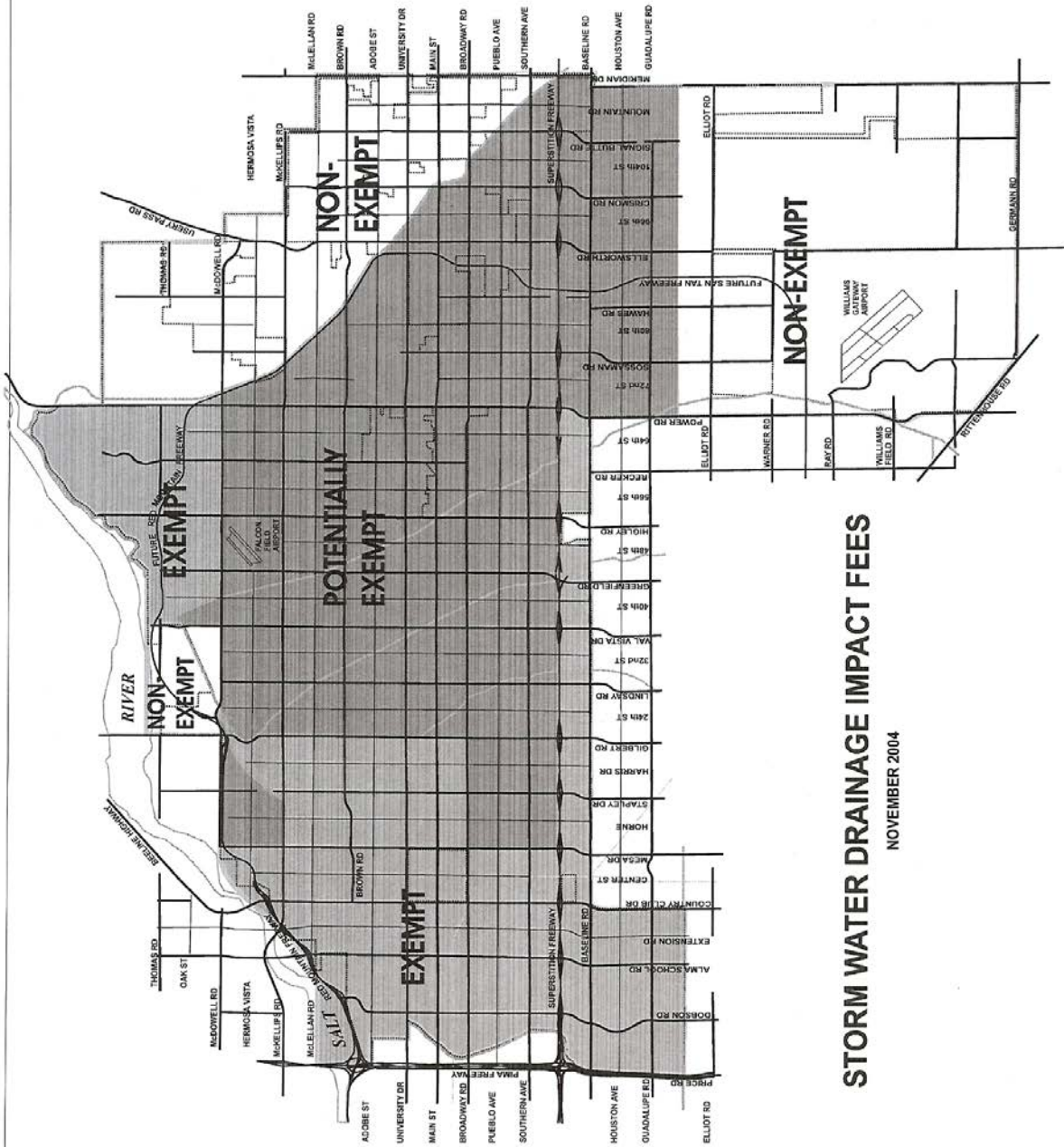
5-17-11: VIOLATION; PENALTY:

Furnishing false information to any official or agent of the City charged with the administration of this Chapter on any matter relating to the administration of this Chapter, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this Chapter. Any person, firm, or corporation that violates any of the provisions of this Chapter shall be guilty of a misdemeanor. Upon conviction, persons shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500), or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Upon conviction, firms or corporations shall be punished by a fine not to exceed twenty thousand dollars (\$20,000). Each violation shall be considered a separate offense, punishable as described above. (3502,3875)



LEGEND

- ROADS
- CANALS
- CITY BOUNDARY
- RAILROAD
- EXEMPT
- POTENTIALLY EXEMPT
- NON EXEMPT
- MESA PLANNING AREA



STORM WATER DRAINAGE IMPACT FEES

NOVEMBER 2004