

Chapter 13 –DEVELOPMENT FEES

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13-1: Title.

This chapter shall be known as the “Oro Valley Development Fee Ordinance,” and will be referred to in this chapter as “this chapter.”

13-2: Legislative Intent and Purpose.

This chapter is adopted for the purpose of promoting the health, safety and general welfare of the residents of Oro Valley by:

- A. Requiring new development to pay its proportionate share of the costs incurred by the Town that are associated with providing Necessary Public Services to new development;
- B. Setting forth standards and procedures for creating and assessing development fees consistent with the requirements of Arizona Revised Statutes (“A.R.S.”) § 9-463.05, including requirements pursuant to A.R.S. § 9-463.05, Subsection K, that on or before August 1, 2014, the Town replace its development fees that were adopted prior to January 1, 2012 with development fees adopted pursuant to the requirements of A.R.S. § 9-463.05 as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session;
- C. Setting forth procedures for administering the development fee program, including Offsets, Credits, and refunds of development fees. All development fee assessments, Offsets, Credits, or refunds must be administered in accordance with the provisions of this Chapter.

This Chapter shall not affect the Town's zoning authority or its authority to adopt or amend its General Plan, provided that planning and zoning activities by the Town may require amendments to development fees as provided in Section 13-7 of this Chapter.

13-3: Definitions.

When used in this Chapter, the terms listed below shall have the following meanings unless the context requires otherwise. Singular terms shall include their plural.

Applicant: A person who applies to the Town for a Building Permit or a Credit.

Appurtenance: Any fixed machinery or equipment, structure or other fixture, including integrated hardware, software or other components, associated with a Capital Facility that is necessary or convenient to the operation, use, or maintenance of a Capital Facility.

Aquatic Center: A facility primarily designed to host non-recreational competitive functions generally occurring within water, including, but not limited to, water polo games, swimming meets and diving events. Such facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities, including but not limited to, locker rooms, offices, snack bars, bleacher seating and shade structures.

Building Permit: The permit required for construction as determined pursuant to Article 6-1 (Building Code) of the Oro Valley Town Code. For purposes of this chapter only, the term "building permit" shall include the approval of the site plan for a Mobile Home Park, the purchase of a new water meter, or the purchase of a larger water meter to replace an existing water meter.

Capital Facility: An asset having a Useful Life of three or more years that is a component of one or more Categories of Necessary Public Service provided by the Town. A Capital Facility may include any associated purchase of real property, architectural and engineering services leading to the design and construction of buildings and facilities, improvements to existing facilities, improvements to or expansions of existing facilities and associated financing and professional services.

Category of Necessary Public Service: A specific type of Necessary Public Services for which the Town is authorized to assess development fees pursuant to A.R.S. § 9-463.05.T.5.

Category of Development: A specific type of residential, commercial, irrigation or industrial development against which a development fee is calculated and assessed. The Town assesses development fees against the following types of development within each of the three broader categories of development: (i) for residential development, Single-Family Detached, Multi-Family and Mobile Home Park; (ii) for commercial development, Retail/Commercial, Hotel/Motel, Office and Public/Institutional; (iii) for irrigation, Irrigation and (iv) for industrial, Industrial and Warehouse.

Credit: A reduction in an assessed development fee resulting from Developer contributions to, payments for, construction of, or dedications for Capital Facilities included in

an Infrastructure Improvements Plan pursuant to Section 13-12 of this Chapter (or as otherwise permitted by this Chapter).

Credit Agreement: A written agreement between the Town and the Developer(s) of a Subject Development that allocates Credits to the Subject Development pursuant to Section 13-12 of this Chapter.

Credit Allocation: A term used to describe when Credits are distributed to a particular development or parcel of land after execution of a Credit Agreement, but are not yet issued.

Credit Issuance: A term used to describe when the amount of an assessed development fee attributable to a particular development or parcel of land is reduced by applying a Credit allocation.

Developer: An individual, group of individuals, partnership, corporation, limited liability company, association, municipal corporation, state agency, or other person or entity undertaking land development activity, and their respective successors and assigns.

Direct Benefit: A benefit to a development resulting from a Capital Facility that: (a) addresses the need for a Necessary Public Service created in whole or in part by the development; and that (b) meets either of the following criteria: (i) the Capital Facility is located in the immediate area of the development and is needed in the immediate area of the development to maintain the Level of Service; or (ii) the Capital Facility substitutes for, or eliminates the need for a Capital Facility that would have otherwise have been needed in the immediate area of the development to maintain the Town's Level of Service.

Dwelling Unit: One or more rooms in a building designed or intended to be used for occupancy by one family, with living, sleeping and food preparation facilities, excluding hotel or motel rooms or suites.

Equipment: Machinery, tools, materials, and other supplies, not including vehicles, that are needed by a Capital Facility to provide the applicable service.

Excluded Park Facility: Park and recreational improvements for which development fees may not be charged pursuant to A.R.S. § 9-463.05.T.7.(g), including amusement parks, aquariums, Aquatic Centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than 3,000 square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, or zoo facilities.

Financing or Debt: Any debt, bond, note, loan, interfund loan, fund transfer, or other debt service obligation used to finance the development or expansion of a Capital Facility or associated Appurtenances, Vehicles or Equipment.

General Plan: Refers to the overall land-use plan for the Town establishing areas of the Town for different purposes, zones and activities adopted by the Town as may be amended from time to time.

Gross Floor Area: The sum of the gross horizontal areas of each story of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings or different uses, including attic space with headroom of seven feet or greater and served by a permanent, fixed stair, but not including enclosed off-street parking or loading areas. Gross Floor 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 in horizontal dimension.

Gross Development Fee: The total development fee to be assessed on a per unit basis, prior to subtraction of any Credits.

Hotel/Motel: Establishments offering temporary lodging in rooms or suites for less than one (1) month or thirty (30) days.

Industrial: Establishments primarily engaged in the fabrication, assembly or processing of goods.

Infrastructure Improvements Plan: A document or series of documents that meet the requirements set forth in A.R.S. § 9-463.05, including those adopted pursuant to Section 13-9 of this Chapter to cover any Category or combination of Categories of Necessary Public Services.

Interim Fee Schedule: Any development fee schedule established prior to January 1, 2012 in accordance with then-applicable law, and which shall expire not later than August 1, 2014 pursuant to Section 13-11 of this Chapter.

Irrigation: Outdoor use of water with a separate water meter for landscaping of property for, but not limited to, commercial, homeowners associations, parks, schools and/or golf courses.

Land Use Assumptions: Projections of changes in land uses, densities, intensities and population for a Service Area over a period of at least ten years as specified in Section 13-7 of this Chapter.

Level of Service: A quantitative and/or qualitative measure of a Necessary Public Service that is to be provided by the Town to development in a particular Service Area, defined in terms of the relationship between service capacity and service demand, accessibility, response times, comfort or convenience of use, or other similar measures or combinations of measures. Level of Service may be measured differently for different Categories of Necessary Public Services, as identified in the applicable Infrastructure Improvements Plan.

Lot: As defined in Chapter 31 of the Oro Valley Town Code.

Multi-Family: A building or buildings containing multiple dwelling units.

Necessary Public Services: Shall have the meaning prescribed in A.R.S. § 9-463.05, Subsection T, Paragraph 7.

Non-Residential: All land uses, except Single-Family Detached and Multi-Family.

Office: A building not located in a shopping center and exclusively containing establishments providing executive, management, administrative or professional services. An office use may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, or child care facilities. Ground floor retail uses may also be included, but that space shall be assessed at the retail/commercial rate. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, secretarial, data processing, telephone answering, telephone marketing, music, radio and television recording and broadcasting studios; banks excluding drive-through only facilities; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; medical and dental offices and clinics, including veterinarian clinics and kennels; and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations.

Offset: An amount that is subtracted from the overall costs of providing Necessary Public Services to account for those Capital Facilities or associated debt that will be paid for by a development through taxes, fees (except for development fees), and other revenue sources, as determined by the Town pursuant to Section 13-8 of this Chapter.

Park Facilities: A Category of Necessary Public Services including but not limited to parks, Swimming Pools and related facilities and Equipment located on real property not larger than 30 acres in area, as well as park facilities larger than 30 acres where such facilities provide a Direct Benefit. Park Facilities do not include Excluded Park Facilities, although Park Facilities may contain, provide access to, or otherwise support an Excluded Park Facility.

Plan-Based Cost per Service Unit: The total future capital costs identified in the Infrastructure Improvements Plan for a Category of Necessary Public Services as attributable to new development over a specified time period divided by the total new Service Units projected in a particular Service Area for that Category of Necessary Public Services over the same time period, less the Offset per Service Unit.

Police Facilities: A Category of Necessary Public Services, including Vehicles and Equipment, that are used by law enforcement agencies to preserve the public peace, prevent crime, detect and arrest criminal offenders, protect the rights of persons and property, regulate and control motorized and pedestrian traffic, train sworn personnel, and/or provide and maintain police records, vehicles, equipment and communications systems. Police Facilities do not include Vehicles and Equipment used to provide administrative services, or helicopters or airplanes. Police Facilities do not include any facility that is used for training officers from more than one station or substation.

Qualified Professional: Any one of the following: (a) a professional engineer, surveyor, financial analyst or planner, or other licensed professional providing services within the scope of that person's education or experience related to city planning, zoning, or development fees and holding a license issued by an agency or political subdivision of the State of Arizona; (b) a financial analyst, planner, or other non-licensed professional who is providing services within the scope of the person's education or experience related to city planning, zoning, or development fees; or (c) any other person operating under the supervision of one or more of the above.

Residential Land Use: A Single-Family Detached, Multi-Family or Mobile Home development.

Retail/Commercial: An establishment engaged in the selling or rental of goods, services or entertainment to the general public. Such uses include, but are not limited to, shopping centers, discount stores, supermarkets, home improvement stores, pharmacies, restaurants, bars, nightclubs, automobile sales and service, drive-through banks, movie theaters, amusement arcades, bowling alleys, barber shops, laundromats, funeral homes, private vocational or technical schools, dance studios, health clubs and banquet halls.

Service Area: Any specified area within the boundaries of the Town within which: (a) the Town will provide a Category of Necessary Public Services to development at a planned Level of Service; and (b) within which (i) a Substantial Nexus exists between the Capital Facilities to be provided and the development to be served, or (ii) in the case of a Park Facility larger than 30 acres, a Direct Benefit exists between the Park Facilities and the development to be served, each as prescribed in the Infrastructure Improvements Plan. Some or all of the Capital Facilities providing service to a Service Area may be physically located outside of that Service Area provided that the required Substantial Nexus or Direct Benefit is demonstrated to exist. The water service area may include areas within or outside of Town boundaries.

Service Unit: A unit of demand within a particular Category of Necessary Public Services, defined in terms of a standardized measure of the demand that a unit of development in a Category of Development generates for Necessary Public Services. For water service the service unit is the 5/8-inch water meter size. For larger water meter sizes the total number of service units is based upon the AWWA capacity ratio.

Single-Family Detached: A lot containing one dwelling unit that is not attached to any other dwelling unit.

Subject Development: A contiguous land area linked by a unified plan of development, in furtherance of which the developer has made a capital improvement or other contribution for which credit is requested.

Substantial Nexus: A substantial nexus exists where the demand for Necessary Public Services that will be generated by a development can be reasonably quantified in terms of the burden it will impose on the available capacity of existing Capital Facilities, the need it will create for new or expanded Capital Facilities, and/or the benefit to the development from those Capital Facilities.

Swimming Pool: A public facility primarily designed and/or utilized for recreational non-competitive functions generally occurring within water, including, but not limited to, swimming classes, open public swimming sessions and recreational league swimming/diving events. The facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities.

Town: The Town of Oro Valley, Arizona.

Transportation Facilities: A Category of Necessary Public Services consisting of Town-owned arterial and major collector streets; and also includes traffic signals, rights-of-way, and improvements thereon; culverts, irrigation tiling, and storm drains serving such streets.

Useful Life: The period of time in which an asset can reasonably be expected to be used under normal conditions, whether or not the asset will continue to be owned and operated by the Town over the entirety of such period.

Vehicle: Any device, structure, or conveyance utilized for transportation in the course of providing a particular Category of Necessary Public Services, excluding helicopters and other aircraft.

Warehouse: Establishments primarily engaged in the display, storage and sale of goods to other firms for resale; activities involving movement and storage of products or equipment; or an enclosed storage facility containing independent, fully enclosed bays that are leased to persons for storage of their household goods or personal property.

Water Facilities: A Category of Necessary Public Services including but not limited to those facilities necessary to provide for water services to development, including the acquisition, supply, transportation, treatment, purification and distribution of water, and any appurtenances to those facilities.

13-4: Applicability

- A. The provisions of this Chapter shall apply to all of the territory within the corporate limits of the Town and its water service area, as follows:
 - 1. Development fees for Transportation, Parks and Police Facilities shall be assessed on all new development within the Town's corporate limits, as those may be amended from time to time.
 - 2. Development fees for Water Facilities shall be assessed for any new connection to the Town's water system or any upgrade of an existing connection to a larger meter size.
- B. The Development Infrastructure Services Director or his/her designee is authorized to make determinations regarding the application, administration and enforcement of the provisions of this Chapter, except in cases where another Town official has specifically been given such authority pursuant to this Chapter.
- C. The Water Utility Director or his/her designee is authorized to make determinations regarding the application, administration and enforcement of the provisions of this Chapter and Chapter 15- Section 17 pertaining to the water development impact fees.

13-5: Authority and Requirements

- A. *Authority.* The Town may assess and collect a development fee for costs of Necessary Public Services, including all professional services required for the preparation or revision of an Infrastructure Improvements Plan, development fee, and required reports or audits conducted pursuant to this Chapter.
- B. *Requirements.* Development fees shall be subject to the following requirements:
1. The Town shall develop and adopt a written report of the Land Use Assumptions and Infrastructure Improvements Plan that analyzes and defines the development fees that may be charged in each Service Area for each Category of Necessary Public Service.
 2. Development fees shall be assessed against all new single family residential, multi family residential, commercial, irrigation and industrial developments, provided that the Town may assess different amounts of development fees against specific Categories of Development based on the actual burdens and costs that are associated with providing Necessary Public Services to that Category of Development. No development fee shall exceed the Plan-Based Cost per Service Unit for any Category of Development.
 3. No development fees shall be charged, or Credits issued, for any Capital Facility that does not fall within one of the Categories of Necessary Public Services for which development fees may be assessed as identified in Section 13-8.A.1 of this Chapter.
 4. Costs for Necessary Public Services made necessary by new development shall be based on the same Level of Service provided to existing development in the same Service Area. Development fees may not be used to provide a higher Level of Service to existing development or to meet stricter safety, efficiency, environmental, or other regulatory standards to the extent that these are applied to existing Capital Facilities that are serving existing development.
 5. Development fees may not be used to pay the Town's administrative, maintenance, or other operating costs.
 6. Projected interest charges and financing costs can only be included in development fees to the extent they represent principal and/or interest on the portion of any Financing or Debt used to finance the construction or expansion of a Capital Facility identified in the Infrastructure Improvements Plan.
 7. Except for any fees included on Interim Fee Schedules, all development fees charged by the Town must be included in a "Fee Schedule" prepared and adopted pursuant to this Chapter.
 8. All development fees shall meet the requirements of A.R.S. § 9-463.05.

9. If the Town agrees to waive any development fees assessed on a development, the Town shall reimburse the appropriate development fee account for the amount that was waived.
10. The actual development fees to be assessed shall be disclosed and adopted in the form of development fee schedules in Appendix A to this Chapter.

13-6: Administration

- A. *Separate Accounts.* Development fees collected pursuant to this Chapter shall be placed in separate, interest-bearing accounts for each Category of Necessary Public Services within each Service Area.
- B. *Limitations on Use of Fees.* Development fees and any interest thereon collected pursuant to this Chapter shall be spent to provide Capital Facilities associated with the same Category of Necessary Public Services in the same Service Area for which they were collected, including costs of Financing or Debt used by the Town to finance such Capital Facilities and other costs authorized by this Chapter that are included in the Infrastructure Improvements Plan.
- C. *Time Limit.* Development fees collected after July 31, 2014 shall be used within ten (10) years of the date upon which they were collected for all Categories of Necessary Public Services except for Water Facilities. Development fees for Water Facilities collected after July 31, 2014 shall be used within fifteen (15) years of the date upon which they were collected.

13-7: Land Use Assumptions

The Infrastructure Improvements Plan shall be consistent with the Town's current Land Use Assumptions for each Service Area and each Category of Necessary Public Services as adopted by the Town pursuant to A.R.S. § 463.05.

- A. *Reviewing the Land Use Assumptions.* Prior to the adoption or amendment of an Infrastructure Improvements Plan, the Town shall review and evaluate the Land Use Assumptions on which the Infrastructure Improvements Plan is to be based to ensure that the Land Use Assumptions within each Service Area conform to the General Plan.
- B. *Evaluating Necessary Changes.* If the Land Use Assumptions upon which an Infrastructure Improvements Plan is based have not been updated within the last five (5) years, the Town shall evaluate the Land Use Assumptions to determine whether changes are necessary. If, after general evaluation, the Town determines that the Land Use Assumptions are still valid, the Town shall issue the notice required in Section 13-10 of this Chapter.
- C. *Required Modifications to Land Use Assumptions.* If the Town determines that changes to the Land Use Assumptions are necessary in order to adopt or amend an Infrastructure Improvements Plan, it shall make such changes as necessary to the

Land Use Assumptions prior to or in conjunction with the review and approval of the Infrastructure Improvements Plan pursuant to Section 13-9 of this Chapter.

13-8: Infrastructure Improvements Plan

A. *Infrastructure Improvements Plan Contents.* The Infrastructure Improvements Plan shall be developed by Qualified Professionals and may be based upon or incorporated within the Town's Capital Improvements Plan. The Infrastructure Improvements Plan shall:

1. Specify the Categories of Necessary Public Services for which the Town will impose a development fee.
2. Define and provide a map of one or more Service Areas within which the Town will provide each Category of Necessary Public Services for which development fees will be charged. Each Service Area must be defined in a manner that demonstrates a Substantial Nexus between the Capital Facilities to be provided in the Service Area and the Service Units to be served by those Capital Facilities. For Libraries and for Parks larger than 30 acres, each Service Area must be defined in a manner that demonstrates a Direct Benefit between the Capital Facilities and the Service Units to be served by those Capital Facilities. The Town may cover more than one category of Capital Facilities in the same Service Area provided that there is an independent Substantial Nexus or Direct Benefit, as applicable, between each Category of Necessary Public Services and the Service Units to be served.
3. Identify and describe the Land Use Assumptions upon which the Infrastructure Improvements Plan is based in each Service Area.
4. Analyze and identify the existing Level of Service provided by the Town to existing Service Units for each Category of Necessary Public Services in each Service Area.
5. Identify the Level of Service to be provided by the Town for each Category of Necessary Public Services in each Service Area based on the relevant Land Use Assumptions and any established Town standards or policies related to required Levels of Service. If the Town provides the same Category of Necessary Public Services in more than one Service Area, the Infrastructure Improvements Plan shall include a comparison of the Levels of Service to be provided in each Service Area.
6. For each Category of Necessary Public Services, analyze and identify the existing capacity of the Capital Facilities in each Service Area, the utilization of those Capital Facilities by existing Service Units and the available excess capacity of those Capital Facilities to serve new Service Units including any existing or planned commitments or agreements for the usage of such capacity.

7. Estimate the total number of existing and future Service Units within each Service Area based on the Town's Land Use Assumptions.
8. Based on the analysis in Paragraphs 3-6 above, provide a summary table or tables describing the Level of Service for each Category of Necessary Public Services by relating the required Capital Facilities to Service Units in each Service Area, and identifying the applicable Service Unit factor associated with each Category of Development.
9. For each Category of Necessary Public Services, analyze and identify the projected utilization of any available excess capacity in existing Capital Facilities, and all new or expanded Capital Facilities that will be required to provide and maintain the planned Level of Service in each Service Area as a result of the new projected Service Units in that Service Area, for a period not to exceed ten (10) years. Nothing in this Subsection shall prohibit the Town from additionally including in its Infrastructure Improvements Plan projected utilization of, or needs for, Capital Facilities for a period longer than ten (10) years, provided that the costs of such Capital Facilities are excluded from the calculation of the Plan-Based Cost per Service Unit.
10. For each Category of Necessary Public Services, estimate the total cost of any available excess capacity and/or new or expanded Capital Facilities that will be required to serve new Service Units, including costs of land acquisition, improvements, engineering and architectural services, studies leading to design, design, construction, financing, and administrative costs. Such total costs shall not include costs for ongoing operation and maintenance of Capital Facilities, nor for replacement of Capital Facilities to the extent that such replacement is necessary to serve existing Service Units. If the Infrastructure Improvements Plan includes changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing Service Units, or to meet new regulatory requirements for services provided to existing Service Units, such costs shall be identified and distinguished in the Infrastructure Improvements Plan.
11. Forecast the revenues from taxes, fees, assessments or other sources that will be available to fund the new or expanded Capital Facilities identified in the Infrastructure Improvements Plan, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved Land Use Assumptions.
12. Calculate required Offsets as follows:

- (a) Identify those sources of revenue that: (i) are attributable to new development, and (ii) will contribute to paying for the capital costs of Necessary Public Services.
- (b) For each source of revenue identified pursuant to paragraph (a) of this Subsection, calculate the relative contribution of new development paying for the capital costs of Necessary Public Services in each Service Area.
- (c) Based on the relative contributions identified pursuant to paragraph (b) of this Subsection, for each Category of Necessary Public Services, calculate the total Offset per Service Unit to be provided in each Service Area.
- (d) Beginning August 1, 2014, for purposes of calculating the required Offset, if the Town imposes a construction, contracting, or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate that is imposed on the majority of other transaction privilege tax classifications in the Town, the entire excess portion of the construction, contracting, or similar excise tax shall be treated as a contribution to the capital costs of Necessary Public Services provided to new development unless the excess portion is already utilized for such purpose pursuant to this Section.

13. Calculate the Plan-Based Cost per Service Unit by:

- (a) Dividing the total projected costs to provide Capital Facilities to new Service Units for each Category of Necessary Public Services in each Service Area as determined pursuant to Subsections 1 through 11 of this Section by the total number of new Service Units projected for that Service Area over a period not to exceed ten (10) years for each Category of Necessary Public Services.
- (b) Subtracting the required Offset per Service Unit calculated pursuant to Subsection 13 of this Section.

B. *Multiple Plans.* An Infrastructure Improvements Plan adopted pursuant to this Subsection may address one or more of the Town's Categories of Necessary Public Services in any or all of the Town's Service Areas. Each Capital Facility shall be subject to no more than one Infrastructure Improvements Plan at any given time.

C. *Reserved Capacity.* The Town may reserve capacity in an Infrastructure Improvements Plan to serve one or more planned future developments. All reservations of existing capacity must be disclosed in the Infrastructure Improvements Plan at the time it is adopted.

13-9: Adoption Procedures

- A. *Adopting or Amending the Infrastructure Improvements Plan.* The Infrastructure Improvements Plan shall be adopted or amended subject to the following procedures:
1. *Major Amendments to the Infrastructure Improvements Plan.* Except as provided in paragraph 2 of this Subsection, the adoption or amendment of an Infrastructure Improvements Plan shall occur at one or more public hearings according to the following schedule, and may occur concurrently with the adoption of an update of the Town's Land Use Assumptions as provided in Section 13-7 of this Chapter:
 - (a) Sixty days before the first public hearing regarding a new or updated Infrastructure Improvements Plan, the Town shall provide public notice of the hearing and post the Infrastructure Improvements Plan and the underlying Land Use Assumptions on its website; the Town shall additionally make available to the public the documents used to prepare the Infrastructure Improvements Plan and underlying Land Use Assumptions and the amount of any proposed changes to the Plan-Based Cost per Service Unit.
 - (b) The Town shall conduct a public hearing on the Infrastructure Improvements Plan and underlying Land Use Assumptions.
 - (c) The Town shall approve or disapprove the Infrastructure Improvements Plan within 60 days, but no sooner than 30 days, after the public hearing. If the document was amended as a result of the public hearing, the revised Infrastructure Improvements Plan shall be posted on the Town's public website at least 15 days prior to the meeting.
 2. *Minor Amendments to the Infrastructure Improvements Plan.* Notwithstanding the other requirements of this Section, the Town may update the Infrastructure Improvements Plan and/or its underlying Land Use Assumptions without a public hearing if all of the following apply:
 - (a) The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not add any new Category of Necessary Public Services to any Service Area.
 - (b) The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not increase the Level of Service to be provided in any Service Area.

- (c) Based on a written analysis, the changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions would not, individually or cumulatively with other amendments undertaken pursuant to this Subsection, have caused a development fee in any Service Area to have been increased by more than five (5) per cent above the development fee that is provided in the current development fee schedule.
- (d) At least 30 days prior to the date that the any amendment pursuant to this Section is adopted, the Town shall post the proposed amendments on the Town website.

B. *Adopting or Amending the Fees.* Any adoption or amendment of a fee schedule shall occur at one or more public hearings according to the following schedule:

1. The first public hearing on the fee schedule must be held at least 30 days after the adoption or approval of the Infrastructure Improvements Plan as provided in Subsection A of this Section. The Town must give at least 30 days' notice prior to the hearing, provided that this notice may be given on the same day as the approval or disapproval of the Infrastructure Improvements Plan.
2. The Town shall make the fee schedule available to the public on the Town's website 30 days prior to the public hearing described in Paragraph 1 of this Subsection.
3. The fee schedule may be adopted by the Town no sooner than 30 days, and no later than 60 days, after the hearing described in Paragraph 1 of this Subsection. If the fee schedule was amended as a result of the public hearing, the revised fee schedule shall be posted on the Town's public website at least 15 days prior to the meeting.
4. The development fee schedule adopted pursuant to this Subsection shall become effective no earlier than 75 days after adoption of the fee schedule by the Town.

13-10: Timing for Updates

- A. *Updating the Infrastructure Improvements Plan.* Except as provided in Subsection B of this Section, not later than every five (5) years the Town shall update the applicable Infrastructure Improvements Plan related to each Category of Necessary Public Services pursuant to Section 13-9 of this Chapter. Such five-year period shall be calculated from the date of the adoption of the Infrastructure Improvements Plan.

- B. *Determination of No Changes.* Notwithstanding Subsection A of this Section, if the Town determines that no changes to an Infrastructure Improvements Plan, underlying Land Use Assumptions, or fee schedules are needed, the Town may elect to continue the existing Infrastructure Improvements Plan without amendment by providing notice as follows:
 - 1. Notice of the determination shall be published at least 180 days prior to the end of the five-year period described in Subsection A of this Section.
 - 2. The notice shall identify the Infrastructure Improvements Plan and fee schedule that shall continue in force without amendment.
 - 3. The notice shall provide a map and description of the Service Area(s) covered by such Infrastructure Improvements Plan and fee schedule.
 - 4. The notice shall identify an address to which any resident of the Town may submit, within 60 days, a written request that the Town update the Infrastructure Improvements Plan, underlying Land Use Assumptions, and/or fee schedule and the reasons and basis for the request.

- C. *Response to Comments.* The Town shall consider and respond within 30 days to any timely requests submitted pursuant to Paragraph 4 of Subsection B of this Section.

13-11: Collection of Fees

- A. *Collection.* Development fees, together with any administrative charges assessed to defray the costs of administering this Chapter, shall be calculated and collected at issuance of permission to commence development; specifically:
 - 1. Development fees shall be paid no sooner than the time of issuance of a Building Permit but prior to the issuance of a Certificate of Occupancy according to the current development fee schedule for the applicable Service Area(s) as adopted pursuant to this Chapter, or according to any other applicable development fee schedule as authorized in this Chapter. All water development impact fees will be collected after the issuance of a Building Permit and/or at the time a water meter is purchased.

- (a) The Town shall determine the amount of each required development fee through the use of the applicable fee schedule.
 - (b) The Town shall determine the Category of Development for each development based on overall, long-term impact of the development. In general, impact fees shall be assessed based on the principal use of a building or lot. For example, a warehouse that contains an administrative office would be assessed at the warehouse rate for all of the square footage. Shopping centers shall be assessed at the retail/commercial rate, regardless of the type of tenants. For a true mixed-use development, such as one that includes both residential and nonresidential development, the fee shall be determined by adding up the fees that would be payable for each use as if it was a free-standing land use type pursuant to the fee schedule. For uses that cannot readily be designated under a particular Category of Development, the Development & Infrastructure Services Director or designee shall determine the category the particular use will be assigned based on which category has a daily trip generation rate most similar to the proposed use. Determinations of the Category of Development may be appealed to the Town Manager or his/her designee.
 - (c) The Town shall determine the water 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 Town 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 development fee shall be determined by adding up all the fees that would be applicable for each meter size in each separate area.
 - (d) In assessing the development fees for Non-Residential land use types, square footage shall be measured in terms of Gross Floor Area, and any determination of square footage shall be in whole units, with any fractions thereof being rounded up to the next square foot.
 - (e) Development 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: only the new portion of development for the current project will be subject to the current development fee schedule.
2. If a Building Permit is not required for the development, but water connections are required, any and all development fees due shall be paid at the time the water meter (service connection) is purchased. If no Building

Permit or water connection is required, all development fees shall be paid prior to development approval.

3. In determining the amount of fees required for land included in a community facilities district established under A.R.S. Title 48, Chapter 4, Article 6, the Town shall take into account any Capital Facilities provided by the district that are included in the Infrastructure Improvements Plan and the capital costs paid by the district for such Capital Facilities, and shall reduce development fees assessed within the community facilities district proportionally.
4. No certificate of occupancy shall be issued if a development fee is not paid as directed in the previous paragraphs.
5. If the Building Permit is for a change in the type of building use, an increase in square footage, a change to land use, or an additional or upgraded point of demand to the water system, the development fee shall be assessed on the additional service units resulting from the expansion or change, and following the development fee schedule applicable to any new use type.
6. For issued permits that expire or are voided, development fees and administrative charges shall be as follows:
 - (a) If the original permittee is seeking to renew an expired or voided permit, and the development fees paid for such development have not been refunded, then the permittee shall pay the difference between any development fees paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.
 - (b) If a new or renewed permit for the same development is being sought by someone other than the original permittee, the new permit Applicant shall pay the full development fees specified in the fee schedule in effect at the time that the permits are reissued or renewed. If the original permittee has assigned its rights under the permits to the new permit Applicant, the new permit Applicant shall pay development fees as if it were the original permittee.

B. *Exceptions.* Development fees shall not be owed under any of the following conditions.

1. Development fees have been paid for the development and the permit(s) which triggered the collection of the development fees have not expired or been voided.
2. The approval(s) that trigger the collection of development fees involve modifications to existing development that do not: (a) add new Service

Units, (b) increase the impact of existing Service Units on existing or future Capital Facilities, or (c) change the land-use type of the existing development to a different Category of Development for which a higher development fee would have been due. To the extent that any modification does not meet the requirements of this paragraph, the development fee due shall be the difference between the development fee that was or would have been due on the existing development and the development fee that is due on the development as modified.

3. Notwithstanding any other law, a city or town shall not assess or collect any fees or costs from a school district or charter school for fees pursuant to A.R.S. Section 9-463.05. This prohibition does not include fees assessed or collected for streets and water and sewer utility functions pursuant to A.R.S. Section 9-500.18.
4. Temporary structures for which an administrative use permit is secured for use as a sales office and not for residential or other purposes and intended to be removed within the two-year period granted under the use permit shall be exempt from development fees. This exemption shall not apply where the temporary building is erected on a parcel of land upon which a permanent building with permanent facilities is to be constructed.

C. *Temporary Exemptions from Development Fee Schedules.* New developments in the Town shall be temporarily exempt from increases in development fees that result from the adoption of new or modified development fee schedules as follows:

1. *Single-Family Uses.* On or after the day that the first building permit is issued for a Single-Family development, the Town shall, at the permittee's request, provide the permittee with an applicable development fee schedule that shall be in force for a period of 24 months beginning on the day that the first building permit is issued, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development fee schedule, any building permit issued for the same Single-Family development shall not be subject to any new or modified development fee schedule, provided that if the Town reduces the amount of an applicable development fee during the period that a grandfathered development fee schedule is in force, the Town shall assess the lower development fee.
2. *Non-Residential and Multi-Family Uses.* On or after the day that the final approval is issued for a Non-Residential or Multi-Family development, the Town shall provide an applicable development fee schedule that shall be in force for a period of 24 months beginning on the day that final development approval of a site plan or final subdivision plat is given, and which shall expire at the end of the first business day of the 25th month thereafter. For the purpose of this paragraph, final approval shall mean the approval of a site plan or, if no site plan is submitted for the development,

the approval of a final subdivision plat. During the effective period of the applicable development fee schedule, any building permit issued for the same development shall not be subject to any new or modified development fee schedule, provided that if the Town reduces the amount of an applicable development fee during the period that a grandfathered development fee schedule is in force, the Town shall assess the lower development fee.

3. *Other Development.* Any development not covered under paragraphs 1 and 2 of this Subsection shall pay development fees according to the fee schedule that is current at the time of collection as specified in Subsection A of this Section.
4. *Changes to Site Plans and Subdivision Plats.* Notwithstanding the other requirements of this Subsection, if changes are made to a development's final site plan or subdivision plat that will increase the number of service units after the issuance of a grandfathered development fee schedule, the Town may assess any new or modified development fees against the additional service units.

13-12: Credits

- A. *Eligibility of Capital Facility.* All development fee Credits must meet the following requirements:
 1. One of the following is true:
 - (a) The Capital Facility or the financial contribution toward a Capital Facility that will be provided by the Developer and for which a Credit will be issued must be identified in an adopted Infrastructure Improvements Plan as a Capital Facility for which a development fee was assessed; or
 - (b) The Applicant must demonstrate to the satisfaction of the Town that, given the class and type of improvement, the subject Capital Facility should have been included in the Infrastructure Improvements Plan in lieu of a different Capital Facility that was included in the Infrastructure Improvements Plan and for which a development fee was assessed. If the subject Capital Facility is determined to be eligible for a Credit in this manner, the Town shall amend the Infrastructure Improvements Plan to (i) include the subject replacement facility and (ii) delete the facility that will be replaced.
 2. Credits shall not be available for any Capital Facility provided by a Developer if the cost of such Capital Facility will be repaid to the Developer by the Town through another agreement or mechanism. To the extent that the Developer will be paid or reimbursed by the Town for any

contribution, payment, construction, or dedication from any Town funding source, any Credits claimed by the Developer shall be: (a) deducted from any amounts to be paid or reimbursed by the Town; or (b) reduced by the amount of such payment or reimbursement.

- B. *Eligibility of Subject Development.* To be eligible for a Credit, the Subject Development must be located within the Service Area of the eligible Capital Facility.
- C. *Calculation of Credits.* Credits will be based on that portion of the costs for an eligible Capital Facility identified in the adopted Infrastructure Improvements Plan for which a development fee was assessed. If the Gross Development Fee for a particular Category of Necessary Public Service is adopted at an amount lower than the Plan-Based Cost per Service Unit, the amount of any Credit shall be reduced in proportion to the difference between the Plan-Based Cost per Service Unit and the Gross Development Fee adopted. A Credit shall not exceed the actual costs the Applicant incurred in providing the eligible Capital Facility, nor shall it exceed the amount of the applicable development fee for the Subject Development.
- D. *Allocation of Credits.* Before any Credit can be issued to a Subject Development (or portion thereof), the Credit must be allocated to that development as follows:
 - 1. The Developer and the Town must execute a Credit Agreement including all of the following:
 - (a) The total amount of the Credits resulting from provision of an eligible Capital Facility.
 - (b) The estimated number of Service Units to be served within the Subject Development.
 - (c) The method by which the Credit values will be distributed within the Subject Development.
 - 2. It is the responsibility of the Developer to request allocation of development fee Credits through an application for a Credit Agreement.
 - 3. If a building permit is issued or a water connection is purchased, and a development 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 this Chapter.
 - 4. If the entity that provides an eligible Capital Facility sells or relinquishes a development (or portion thereof) that it owns or controls prior to execution of a Credit Agreement, Credits will only be allocated to the development

if the entity legally assigns such rights and responsibilities to its 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 Town, 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.

E. *Credit Agreement.* Credits shall only be issued pursuant to a Credit Agreement executed in accordance with Subsection D of this Section. The Development & Infrastructure Services Director or authorized designee is authorized by this Chapter to enter into a Credit Agreement with the controlling entity of a Subject Development, subject to the following:

1. The Developer requesting the Credit Agreement shall provide all information requested by the Town to allow it to determine the value of the Credit to be applied.
2. An application for a Credit Agreement shall be submitted to the Town by the Developer within one year of the date on which ownership or control of the Capital Facility passes to the Town.
3. The Developer shall submit a draft Credit Agreement to the Development & Infrastructure Services Director or authorized designee(s) for review in the form provided to the Applicant by the Town. The draft Credit Agreement shall include, at a minimum, all of the following information and supporting documentation:
 - (a) A legal description and map depicting the location of the Subject Development for which Credit is being applied. The map shall depict the location of the Capital Facilities that have been or will be provided.
 - (b) An estimate of the total Service Units that will be developed within the Subject Development depicted on the map and described in the legal description.
 - (c) A list of the Capital Facilities, associated physical attributes and the related costs as stated in the Infrastructure Improvements Plan.
 - (d) Documentation showing the date(s) of acceptance by the Town, if the Capital Facilities have already been provided.
 - (e) The total amount of Credit to be applied within the Subject Development and the calculations leading to the total amount of Credit.

- (f) The Credit amount to be applied to each Service Unit within the Subject Development for each Category of Necessary Public Services.
 4. The applicant shall pay the cost incurred by the Town in making the determination. The Town as a condition of proceeding with the application will require a deposit of the reasonably estimated cost. The Town's determination of the Credit to be allocated is final.
 5. Upon execution of the Credit Agreement by the Town and the Applicant, Credits shall be deemed allocated to the Subject Development.
 6. Any amendment to a previously approved Credit Agreement must be initiated within two (2) years of the Town's final acceptance of the eligible Capital Facility for which the amendment is requested.
 7. Development credits must be used within ten (10) years from the date of Credit Agreement.
- F. *Issuance of Credits.* Credits allocated pursuant to Subsection D of this Section may be issued and applied toward the Gross Development Fees due from a development, subject to the following conditions:
1. Credits issued for an eligible Capital Facility may only be applied to the development fee due for the applicable Category of Necessary Public Services, and may not be applied to any fee due for another Category of Necessary Public Services.
 2. Credits shall only be issued when the eligible Capital Facility from which the Credits were derived has been accepted by the Town.
 3. Where Credits have been issued pursuant to paragraph 2 of this Subsection, a development fee due at the time a building permit is issued shall be reduced by the Credit amount stated in or calculated from the executed Credit Agreement. Where Credits have not yet been issued, the Gross Development Fee shall be paid in full.
 4. Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that Credits may be released for reuse on the same Subject Development if a building permit for which the Credits were issued has expired or been voided and is otherwise eligible for a refund under Section 13-14.A.2(a) of this Chapter.

13-13: Appeals

A development fee determination by Town staff may be appealed in accordance with the following procedures:

- A. *Limited Scope.* An appeal shall be limited to disputes regarding the calculation of the development fees for a specific development and/or permit and calculation of Service Units for the development.
- B. *Form of Appeal.* An appeal shall be initiated on such written form as the Town may prescribe and submitted to the Development & Infrastructure Services Director or designee. The Applicant shall submit a written notice of appeal with a full statement of the grounds and an appeal fee of two hundred dollars (\$200.00) or such other amount as may be fixed from time to time by ordinance adopted by the Town Council.
- C. *Action by Manager.* The Town Manager or authorized designee shall act upon the appeal within 14 calendar days of receipt of the appeal and the Applicant shall be notified of the Town Manager or authorized designee's decision in writing.
- D. *Final Decision.* The Town Manager or authorized designee's decision regarding the appeal is final.
- E. *Fees During Pendency.* Building permits may be issued during the pendency of an appeal if the Applicant (1) pays the full development fee calculated by the Town at the time the appeal is filed or (2) provides the Town with financial assurances in the form acceptable to the Town Manager or authorized designee equal to the full amount of the development fee. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered, and a refund paid if warranted. If the appeal is denied by the Town Manager or authorized designee, and the Applicant has provided the Town with financial assurances as set forth in clause (2) above, the Applicant shall deliver the full amount of the development fee to the Town within ten days of the Town Manager or designee's final decision on the appeal. If the Applicant fails to deliver the full amount of the development fees when required by this Subsection, the Town may draw upon such financial assurance instrument(s) as necessary to recover the full amount of the development fees due from the Applicant.

13-14: Refunds

- A. *Refunds.* A refund (or partial refund) will be paid to any current owner of property within the Town who submits a written request to the Town and demonstrates that:
 - 1. The permit(s) that triggered the collection of the development fee have expired or been voided prior to the commencement of the development for which the permits were issued and the development fees collected have not been expended, encumbered, or Pledged for the repayment of Financing or Debt; or

2. The owner of the subject real property or its predecessor in interest paid a development fee for the applicable Category of Necessary Public Services on or after August 1, 2014, and one of the following conditions exists:
 - (a) The Capital Facility designed to serve the subject real property has been constructed, has the capacity to serve the subject real property and any development for which there is reserved capacity and the service which was to be provided by that Capital Facility has not been provided to the subject real property from that Capital Facility or from any other Capital Facility.
 - (b) After collecting the fee to construct a Capital Facility, the Town fails to complete construction of the Capital Facility within the time period identified in the Infrastructure Improvements Plan, as it may be amended, and the corresponding service is otherwise unavailable to the subject real property from that Capital Facility or any other Capital Facility.
 - (c) For a Category of Necessary Public Services other than Water Facilities, any part of a development fee is not spent within ten (10) years of the Town's receipt of the development fee.
 - (d) Any part of a development fee for Water Facilities is not spent within fifteen (15) years of the Town's receipt of the development fee.
 - (e) The development fee was calculated and collected for the construction cost to provide all or a portion of a specific Capital Facility serving the subject real property and the actual construction costs for the Capital Facility are less than the construction costs projected in the Infrastructure Improvements Plan by a factor of 10% or more. In such event, the current owner of the subject real property shall, upon request as set forth in this Section A, be entitled to a refund for the difference between the amounts of the development fee charged for and attributable to such construction cost and the amount the development fee would have been calculated to be if the actual construction cost had been included in the Infrastructure Improvements Plan. In performing the recalculation, the Town may take into consideration actual construction costs for other improvements serving the subject real property that were included in the Infrastructure Improvements Plan for the same Category of Necessary Public Facilities. The refund contemplated by this Subsection shall relate only to the costs specific to the construction of the applicable Capital Facility and shall not include any related design, administrative, or other costs not directly incurred for construction of the Capital Facility

that are included in the development fee as permitted by A.R.S. § 9-463.05.

- B. *Earned Interest.* A refund of a development fee shall include any interest actually earned on the refunded portion of the development fee by the Town from the date of collection to the date of refund. All refunds shall be made to the record owner of the property at the time the refund is paid.
- C. *Refund to Government.* If a development fee was paid by a governmental entity, any refund shall be paid to that governmental entity.
- D. *Correction of Errors.* The Development & Infrastructure Services Director or designee is hereby authorized and directed to correct any error in the assessment and collection of development fees detected within twenty-four (24) months of the date of the payment of the development fees, including assessing additional development fee amounts or issuing a refund from the appropriate development fee fund(s).
- E. *No Refund for Change of Development.* After a development fee has been paid pursuant to this Chapter, no refund of any part of such development fee shall be made if the development for which the development 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 number of Service Units.

13-15: Oversight of Program

- A. *Annual Report.* Within 90 days of the end of each fiscal year, the Town shall file with the Town Clerk an unaudited 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, Subsections N and O, as amended.
- B. *Biennial Audit.* In addition to the Annual Report described in Subsection A of this Section, the Town shall provide for a biennial, certified audit of the Town's Land Use Assumptions, Infrastructure Improvements Plan and development fees.
 - 1. An audit pursuant to this Subsection shall be conducted by one or more Qualified Professionals who are not employees or officials of the Town and who did not prepare the Infrastructure Improvements Plan.
 - 2. The audit shall review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development fees assessed, collected and spent on capital facilities.

3. The audit shall describe the Level of Service in each Service Area and evaluate any inequities in implementing the Infrastructure Improvements Plan or imposing the development fee.
4. The Town shall post the findings of the audit on the Town's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.
5. For purposes of this Section a certified audit shall mean any audit authenticated by one or more of the Qualified Professionals conducting the audit pursuant to paragraph 1 of this Subsection.

13-16: Fee Schedule

A. Transportation, Parks and Police Development Fees

Land Use Type	Unit	Transportation	Parks	Police	Total
Single-Family Detached	Dwelling	\$1,990	\$856	\$310	\$3,156
Multi-Family	Dwelling	\$1,231	\$599	\$215	\$2,045
Mobile Home Park	Space	\$649	\$651	\$234	\$1,534
Hotel/Motel	Room	\$758	\$0	\$200	\$958
Retail/Commercial	1,000 sq. ft.	\$2,412	\$0	\$447	\$2,859
Office	1,000 sq. ft.	\$1,822	\$0	\$156	\$1,978
Industrial	1,000 sq. ft.	\$983	\$0	\$65	\$1,048
Warehouse	1,000 sq. ft.	\$915	\$0	\$63	\$978
Public/Institutional	1,000 sq. ft.	\$1,379	\$0	\$118	\$1,497

B. Water Development Fees – Refer to Town Code Chapter 15- Article 17.