

ORDINANCE No. 2009-95

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO CAPITAL IMPROVEMENTS FUNDING AND DEVELOPMENT FEES; AMENDING CHAPTERS 19.01 AND 19.02 OF THE PIMA COUNTY CODE TO CLARIFY TERMS AND DEFINITIONS; AMENDING CHAPTER 19.03 OF THE PIMA COUNTY CODE TO UPDATE CURRENT IMPACT FEE SCHEDULES AND ADD THE SOUTHWEST BENEFIT AREA IMPACT FEE AND IMPLEMENTATION SCHEDULES *(All Districts)*

WHEREAS, on January 23, 1996, the Pima County Board of Supervisors approved and adopted the Pima County Roadway Impact Fee Ordinance, codified in Title 19 of the Pima County Code, which established a Roadway Development Fee for those benefit areas established by the Board, and

WHEREAS, on December 11, 2007 the Pima County Board of Supervisors received and endorsed the Southwest Infrastructure Plan Final Report which addressed all infrastructure needed to accommodate planned growth within the Southwest study area, and

WHEREAS, on May 6, 2008 the Pima County Board of Supervisors adopted Resolution 2008-109 which gave public notice of the Board's intent to consider increasing the county's development impact fee within a newly established Southwest benefit area, and

WHEREAS, on August 4, 2009 the Pima County Board of Supervisors received the Final Public Report and recommendations for roadway development impact fees for a new Southwest Benefit Area, and

WHEREAS, the Pima County Board of Supervisors has determined that it is necessary to amend Pima County Code Chapter 19.01 and 19.02 to clarify terms and definitions currently codified in Title 19, and

WHEREAS, the Pima County Board of Supervisors has determined that it is necessary to amend Pima County Code Chapter 19.03 to update current impact fee schedules and to establish a new Southwest Benefit Area, roadway impact fees within the new benefit area and an implementation schedule,

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

SECTION 1. Section 19.01 of the Pima County Code is hereby amended to read as follows:

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19.01.030 Definitions.

A. Except as provided herein, the terms used in this title shall have the definitions set forth in Title 18 (Zoning) of the Pima County code:

1. "Benefit area" means a specific geographic area with specific boundaries and a specific name for which the Board of Supervisors has adopted a development impact fee.

2. "Benefit area plan" means an engineering and land use study that identifies the estimated future growth in a benefit area and the capital roadway improvements and costs to serve that development.

3. "Building permit" means....

4. "CIP" means the capital improvements plan, which itemizes the nature, extent, cost, anticipated funding, and phasing of capital improvements for Pima County. The CIP includes, but is not limited to, the development fees projects plan.

5. "Development agreement" means....

6. "Development fee projects plan" means the list of capital roadway improvement projects in a benefit area that have been approved by the Board of Supervisors and for which development impact fees may be expended.

7. "EDU" or "equivalent dwelling unit" means

8. "Gross density" means

9. "High density residential" means

10. "Low density residential" means

11. "Medium density residential" means

12. "New development" means....

13. "Retirement community" means

14. "VMT" means vehicle....

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19.02.010 Development fee projects plan.

The Pima County development fee projects plan shall be a component of the roadway element of Pima County's CIP. All proposed expenditures for roadway projects funded or to be funded, in whole or in part, with development fees shall be identified in the development fee projects plan component of the CIP. As benefit areas are recorded, the capital roadway improvements identified in the benefit area plan to be funded with development fees shall be included in the development fee projects plan component of the CIP. The development fee projects plan component of the CIP shall be updated and adopted as necessary as determined by the board.

19.02.020 Roadway needs assessment.

Before or in conjunction with the creation of benefit area plans pursuant to Section 19.02.030, the Pima County department of transportation shall conduct a needs assessment for roadways within the benefit area. The needs assessment shall:

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19.02.030 Roadway benefit area plan.

Before assessment of a new development fee for roadways, the Pima County department of transportation shall create a benefit area plan for the benefit area in which development fees will be applied. Each benefit area plan shall comply with the following requirements:

- A. Each benefit area plan shall determine the extent of capital roadway improvements needed or existing to serve the anticipated future development of the benefit area, considering the Pima County comprehensive plan, the metropolitan transportation plan, the Pima Association of Governments transportation improvement program, the Pima County transportation needs assessment, and the CIP.
- B. Each benefit area plan shall determine the actual public facilities capital costs or reasonable estimates of capital costs to be incurred on projects any portion of which are to be funded with development fees.
- C. Pima County shall determine the extent to which the costs
- D. Each benefit area plan shall project the total number of lane miles
- E. Each benefit area plan shall use a projected average daily capacity per lane of eight thousand vehicles for the facilities identified in the benefit area plan.
- F. Each benefit area plan shall determine the projected VMT....
- G. Each benefit area plan shall determine the projected number
- H. Each benefit area plan shall include an estimate of the timing
- I. The benefit area plan shall identify the public facilities that will bear a reasonable relationship to the needs created by development within the benefit area covered by the benefit area plan.

19.02.040 Development fee ordinance adoption.

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C. In determining and assessing a development fee applying to land in a community facilities district established pursuant to § A.R.S. 48-271 et seq. the board of supervisors shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and shall not assess a portion of the development fee based on the infrastructure or costs.

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Chapter 19.03 ADMINISTRATIVE PROVISIONS

Sections:

19.03.10 General Administrative Provisions

19.03.020 Impact Fee Determination

19.03.030 Southwest Benefit Area Impact Fee Determination

19.03.040 Credits

19.03.050 Administrative review of fee determination.

19.03.060 Administration of roadway development fees.

19.03.070 Waiver of fee.

19.03.010 General Administrative Provisions.

A. Residential EDU Multipliers. The EDU multipliers for various types of residential development are shown in Table 1. The impact fee for the various types residential development is calculated by multiplying the residential use base fee by the appropriate EDU multiplier.

B. Determination of Unlisted Non-Residential Fee Per Unit. The per unit fee for non-residential uses not listed in Table 3 and Table 5 are calculated using a methodology consistent with the methodology set forth in the Department of Transportation's "Task 2 and Task 3 Final Report: Non-Residential Roadway Development Fee Structure for Pima County, Arizona," dated February 12, 2003, and located in the offices of the Pima County Department of Transportation.

C. Developer may provide an independent impact fee analysis, prepared by a registered traffic engineer, for projects that do not fit within the average values(trip generation, trip length, modal mix) used to calculate impact fees.

D. Roadway Impact Fee Adjustments Based on Engineering News Record-Construction Cost Index. On July 1, 2007 and on each July 1 thereafter, all residential and non-residential impact fees shall be increased based on the annual increase in the Engineering News Record-Construction Cost Index (ENR-CCI). The Adjustment shall be computed by:

1. Calculating the percent increase in the ENR-CCI between the most recently published ENR-CCI at the time of the adjustment and the ENR-CCI for the same month of the previous year.

2. Multiplying the Roadway Development Fees in effect in the year immediately prior to the Adjustment; by the percent increase in the ENR-CCI

3. Adding the resulting amount to the Roadway Development Fees in effect in the year immediately prior to the Adjustment.

E. Administrative Fee. An administrative fee of \$75 will be charged for each building permit and added to the calculated impact fee amount. The administrative fee may be reduced by 25% when 50 or more permits are obtained in a single Roadway Impact Fee application.

Table 1
Residential EDU

Land Use Type	EDU Multiplier	
	Standard	Retirement Community
Low and Medium Density Residential	1.00	0.75
High Density Residential	0.75	0.56

19.03.020 Impact Fee Determination.

A. Residential Use Base Fee. The residential use base fee for all benefit areas except the Southwest Benefit Area is shown in Table 2. The base will be adjusted annually as set forth in 19.03.010 (D).

Table 2
Residential Fee Amounts

	<u>Current Fee as of July 1, 2009</u>
<u>Standard Residential</u>	<u>\$4,934</u>
<u>Retirement Community</u>	<u>\$3,701</u>
<u>High Density Residential</u>	<u>\$3,701</u>
<u>High Density Retirement</u>	<u>\$2,763</u>

B. Non-Residential Use Fee Determination. The non-residential fee for all benefit areas except the Southwest Benefit Area are shown in Table 3. The fee amount for non-residential development is determined multiplying the number of applicable units for the use times the fee per unit as set forth in the following table.

**Table 3
Non-Residential Fee Amounts**

Land Use	Unit	Effective as of July 1, 2009
General Commercial/ Retail	1000 sf*	\$2,899
Shopping Center	1000 sf	\$2,008
Mega Shopping Center > 300,000 sq. ft.	1000 sf	\$5,130
Supermarket	1000 sf	\$4,553
Convenience Store/ Gas Station	1000 sf	\$13,876
Restaurant	1000 sf	\$8,671
Fast Food with Drive-Through	1000 sf	\$17,490
Fast Food without Drive-Through	1000 sf	\$13,955
Bank with Drive-Through	1000 sf	\$11,490
"Big Box" retail-freestanding > 100,000 sq. ft.	1000 sf	\$2,767
Mega "Big Box" retail-freestanding > 150,000 sq. ft.	1000 sf	\$5,625
Home Improvement Superstore	1000 sf	\$1,142
General Office	1000 sf	\$1,633
Medical-Dental Office	1000 sf	\$3,897
Light Industrial	1000 sf	\$2,076
Heavy Industrial	1000 sf	\$1,300
Hotel/Motel	Room	\$1,256
Motor Vehicle Sales**	1000 sf	\$1,606

* One Thousand Square Feet of Gross Floor Area.

** Includes New and Used Cars, Recreational Vehicles, Motorcycles

19.03.030 Southwest Benefit Area Fee Determination

- A. Residential Use Base Fee. The residential base fees for the Southwest Benefit Area are established in Table 4. Residential fees in the Southwest Benefit area will be initially assessed at the current fee rates and increased as set forth in 19.03.030(C)

**Table 4
Southwest Benefit Area Residential Fees**

	Current Fee as of 7/1/09	Southwest Benefit Area Fee
Standard Residential	\$4,934	\$9,500
Retirement Community	\$3,701	\$7,125
High Density Residential	\$3,701	\$7,125
High Density Retirement	\$2,763	\$5.320

B. Non-Residential Use Fee Determination. The non-residential base fees for the Southwest Benefit Area are established in Table 3. Non-residential fees in the Southwest Benefit area will be initially assessed at the current fee rates and increased as set forth in 19.03.030 (C)

**Table 5
Southwest Benefit Area Non-Residential Fees**

Land Use	Unit	Current Fee per unit as of 7/1/09	Southwest Benefit Area Fee per unit
General Commercial/ Retail	1000 sf*	\$2,899	\$5,122
Shopping Center	1000 sf	\$2,008	\$3,478
Supermarket	1000 sf	\$4,553	\$8,332
Convenience Store/ Gas Station	1000 sf	\$13,876	\$18,893
Restaurant	1000 sf	\$8,671	\$15,489
Fast Food with Drive-Through	1000 sf	\$17,490	\$29,444
Fast Food without Drive-Through	1000 sf	\$13,955	\$24,997
Bank with Drive-Through	1000 sf	\$11,490	\$13,348
"Big Box" retail-freestanding > 100,000 sq. ft.	1000 sf	\$2,767	\$5,175
Home Improvement Superstore	1000 sf	\$1,142	\$1,959
General Office	1000 sf	\$1,633	\$2,901
Medical-Dental Office	1000 sf	\$3,897	\$6,367
Light Industrial	1000 sf	\$2,076	\$3,601

Heavy Industrial	1000 sf	\$1,300	\$2,268
Hotel/Motel	Room	\$1,256	\$2,189
Motor Vehicle Sales**	1000 sf	\$1,606	\$2,797

* One Thousand Square Feet of Gross Floor Area

** Includes New and Used Cars, Recreational Vehicles, Motorcycles

C. All Roadway Development Impact fee increases for the Southwest Benefit Area shall be implemented as approved by the Board of Supervisors.

19.03.040 Credits

A. Parties subject to this title are entitled to credit towards the payment of the fee for the required dedication of public sites and improvements provided by the developer for which that fee is assessed.

B. Improvements provided by a developer which conform to the adopted Development Fee Projects Plan are eligible for credits against the roadway development impact fee, up to the total amount of fees which are assessed.

C. For those projects contained in the, a credit shall be provided for construction of roadway capacity (additional through traffic lanes) to the extent that the additional traffic capacity exceeds the amount of demand generated by the subject development and is offsite to the development.

D. For those projects contained in the Development Projects Plan a credit shall be provided for construction of offsite traffic signal(s) where warrant conditions are satisfied.

E. The following contributions are not eligible for credits against impact fees:

1. Project improvements interior to the development (on-site improvement).
2. Adjacent roadway improvements required as part of the County's development approval process, including but not limited to access roads, driveways, medians and median openings, right or left turn lanes into the development or its associated roadways.

F. A credit or reimbursement for eligible improvements as defined in 19.03.040 B, C and D shall be by written Agreement between the developer or property owner and Pima County and shall include documentation of actual costs incurred by the developer.

19.03.050 Administrative review of fee determination.

Administrative review of the final impact fee determination may be requested from the impact fee program manager as follows:

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B. Requests shall be in writing, on the form so prescribed and filed with the department of transportation within ninety calendar days of a final impact fee determination.

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19.03.060 Administration of roadway development fees.

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B. The development impact fees shall be assessed and paid at the time the building permit is issued. Non-residential impact fees may be paid through an alternate payment schedule if requested in advanced and approved in a Development Agreement by the Board of Supervisors.

C. In the case of a large scale Regional Shopping Center greater than 300,000 sq. ft. gross floor area or a Large Scale Retail Establishment greater than 150,000 sq. ft. gross floor area, the provisions of 19.03.040 B. may be replaced by a Development Agreement entered into by the Developer/Owner and Pima County. Such Agreement will specify the terms of the development fee payment, the interest rate, and the form of the payment schedule. Other indemnifications will also be incorporated.

D. The Pima County development services department is responsible for collecting and accounting for development fees adopted pursuant to this title. The fees shall be accounted for in a separate fund as provided for in A.R.S. § 11-1102(B) that clearly identifies the benefit area for which the fee was imposed. Development fees shall be invested with all interest accruing to the fund.

E. Pima County department of transportation shall retain copies of all needs assessments, development fee projects plans and any other data sources on which the assessment of the development fee is based, and shall make such information available to the public on request.

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SECTION 2. This Ordinance shall become effective 90 days from the date of adoption.

SECTION 3. The various Pima County officers and employees are hereby authorized and directed to perform all acts necessary and desirable to give effect to this Ordinance.

PASSED AND ADOPTED this 6th day of October 2009 by the Pima County Board of Supervisors.

PIMA COUNTY BOARD OF SUPERVISORS

Chairman of the Board of Supervisors

Date: _____

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board of Supervisors

Deputy County Attorney