

Section Twelve—Cost of Development

12.1 Introduction

There are costs when local jurisdictions provide new or expanded public facilities to new development. This cost is rising at a pace that exceeds local government revenue generating capabilities. The increasing cost of maintaining existing infrastructure, combined with declining public support for taxation, is forcing jurisdictions to seek funding alternatives. Development agreements and development fees shift some of the burden of paying for new or expanded facilities from public entities to private developers. Providing adequate infrastructure is increasingly important as the county grows. It is prudent to implement a plan to provide necessary public services to developing areas without placing a financial burden upon county government and existing residents. A basic premise of this Element is to provide background information recognizing the direct link between the build-out of land and the costs of providing infrastructure to new developments. This Element considers how new development should pay a 'fair share' for the increase it creates in county infrastructure costs.

12.2 Overview

The State Legislature has authorized local agencies to collect development fees from new development projects. Different methods in assessing development fees have been implemented around the State. The fees range from \$0 to as high as \$8,570 per single family dwelling. The average fee is \$3,000. The majority of these fees must be paid in addition to any building, grading, encroachment or permit fees at the time a building or manufactured home placement permit is issued.

Various names given to development fees include:

- Impact fees
- Cost of Development fees
- Pro Rata fees
- Development Impact fees

Types of public facilities for which the fees are imposed include:

- Transportation expansion (but not for maintenance of existing roads)
- Water and sewer line improvements
- Police and fire services
- Park/open space acquisition
- Library funding
- Trash/sanitation services

Water and sewer projects capture the greatest portion of assessed development fees. Other beneficiaries in descending order are: streets, parks, libraries, fire and police departments and sanitation.

12.3 Growing Smarter and Growing Smarter Plus

The Cost of Development Element is optional for Yuma County. The Element is mandatory for counties having a population of more than two hundred thousand persons. Specific provisions contained in *Growing Smarter Plus* include:

Arizona Revised Statute, Title 11

- **Chapter 6 - County Plan and Zoning Article 2:**
 - §11-821. County plan; definitions
 - 4. A cost of development element that identifies policies and strategies that the county will use to require development to pay its fair share toward the cost of additional public facility needs generated by new development, with appropriate exceptions when in the public interest. This element shall include
 - (a) A component that identifies various mechanisms that are allowed by law and that can be used to fund and finance additional public services necessary to serve the development, including bonding, special taxing districts, development fees, in lieu fees and facility construction, dedications and privatization.
 - (b) A component that identifies policies to ensure that any mechanisms that are adopted by the county under this element result in a beneficial use to the development, bear a reasonable relationship to the burden imposed on the county to provide additional necessary public facilities to the development and otherwise are imposed according to law.
- **Chapter 8 - Development Fees; Article 1:**
 - §11-1101. Development agreements
 - A. A county, by resolution or ordinance, may enter into development agreements relating to property located outside the incorporated area of a city or town.
 - §11-1102. County development fees
 - A. If a county has adopted a capital improvements plan, the county may assess development fees within the covered planning area in order to offset the capital cost for water, sewer, streets, parks and public safety facilities determined by the plan to be necessary for public services provided by the county to a development in the planning area.

12.4 Assumptions

Several assumptions serve as the basis to include a Cost of Development Element in the Plan. Currently, the cost of providing services and infrastructure to new development is transferred to the county/taxpayer by default because the county has no defined policy to create a financial obligation on the developer to provide infrastructure and services. As a consequence, the county must provide services and infrastructure as a matter of public health, safety and welfare. Additional assumptions include:

Cost of Development Element–Financing Mechanisms

- There is no mechanism to project and assign cost for the density and intensity of development under the Land Use Element of the Plan.
- Public participation indicates a deficiency in public infrastructure, particularly roads.
- A rational and legal nexus must be established between the imposition of fees and the public goods and services that will be provided.
- New development may locate outside of the jurisdiction if the private sector determines the county has not established a clear methodology for projecting and assigning development agreements and development fees.

12.5 Infrastructure Financing Mechanisms

Statutes permit several finance mechanisms to fund new infrastructure, facilities and equipment. Mechanisms available to the county for funding expansion of physical infrastructure and services have binding restrictions on the county and developer and include:

- Development Agreements
- Development Fees/Impact Fees
- Special Districts
- Community Facilities Districts
- Revenue Bonds
- Primary and Secondary Property Taxes
- Sales Tax
- Specialty Industry Tax (e.g. Hotel Bed Tax)
- Excise Tax
- User Fees
- Planned Unit Development (PUD)

The two preferred means of financing infrastructure and “fair share” payments with new development are development agreements and development fees.

Development Agreements - Development agreements are authorized by A.R.S. §11-1101. A development agreement specifies the obligations of the governmental and the private developer. The responsibility for financing public infrastructure and services is clearly defined within the agreement. The criteria by which the county may enter into an agreement, exact performance criteria and objectives for all parties are contained in A.R.S. §11-1101.

Development Fees/Impact Fees - Development fees are authorized by A.R.S. §11-1102. Generally, impact fees are charges levied against new development in order to generate revenue for capital improvements to serve new development. They are controversial due to their financial impact on the home builder or contractor. They are charged at the time the building permit is issued.

Cost of Development Element–Implementation

Development fees are scheduled charges to new development to generate revenue for the construction or expansion of capital facilities located outside the boundaries of the new development (off-site) that benefit the contributing development. As currently applied, development fees cannot be used for operation, maintenance, repair, alteration or replacement of capital facilities. The fees are assessed and dedicated for the provision of water and sewer systems, roads, parks, libraries, police and fire facilities, general government administrative buildings, emergency medical facilities, hospitals, schools and even solid-waste facilities.

The county can collect development fees to pay for the expansion of public facility capital improvements and public services (streets, water, sewer, parks and public safety facilities) through the building permit process. These need to be specifically identified or covered by the county's Comprehensive Plan and/or Capital Improvements Plan. These plans specify the level of service for each new facility which is to be the subject of a development fee. The standards apply equally to new and existing development.

12.6 Implementation

Development fees assessed in the county would provide a means of fairly assessing the costs of providing capital facilities to the new development. However, development fees pose several issues: legal, economic, technical, administrative, policy and financing. Furthermore, to develop and administer a program that meets ethical and legal standards requires a substantial commitment of time and energy and must be carefully designed and properly documented.

Due to the statutory requirements and the need to be fair, setting development fees is a complex issue. Development fees must reflect proportional costs, rational nexus criteria and development credits. These calculations are neither simple nor straightforward. Due to the number of variables, an expert should assess such a fee to insure validity. The use of a consultant to create and document fee calculations is appropriate.

A critical component to development fees is a needs assessment as stipulated in A.R.S. §11-1102. Public participation indicates assessing development fees for roads is the greatest need in the county. Nonetheless, if a development fee were assessed, the geographic attributes of the county permits the use of differing designated service areas.

Implementation of any development agreement or development fee is subject to adoption by the Board of Supervisors. The prospective ordinance should set forth specific administrative authority and program parameters. The ordinance(s) must be consistent with applicable legislation. Important legal criteria include:

- Capital facilities financed with development fees must be a consequence of new development rather than arising from existing development.
- Development fees imposed on new development may be no more than a proportionate share of local government's cost of the new capital facilities needed to serve new development.

Cost of Development Element-Into The Future

- Development fee revenue must be managed and expended at such a time and in such a location the development paying the fee will receive a substantial benefit from the capital facility.
- Development fees are imposed only for those types of public facility capital improvements and services specifically identified in or covered by the Yuma County 2020 Comprehensive Plan or county Capital Improvements Plan.

12.7 Into the Future

The Yuma County 2020 Comprehensive Plan period is relatively short. Ideally planning should encompass a 25 to 50 year period of time and it is imperative to maintain perspective relative to development agreements and development fees. With projected growth and development, the need for adequate public infrastructure and services will steadily increase. Consequently, the Cost of Development Element will serve as a foundation for a development agreement and development fee program that will extend past the 2020 planning period.