

DIVISION 1. APPLICABILITY AND INTENT

Sec. 23A-71. Short title and applicability.

- (1) Short title. This article may be known and cited as Tucson's "Impact Fee Regulations," and is referred to herein as "this article."
- (2) Applicability. The provisions of this article shall apply to all of the territory within the corporate limits of the city.

Sec. 23A-72. Intent.

- (1) The intent of this article is to ensure that impact-generating development bears a reasonable proportionate share of the cost of improvements to the city's arterial road, regional park, police, fire and public facilities infrastructure system; to ensure that the proportionate share does not exceed the cost of providing this infrastructure; to ensure that the expenditure of impact fees results in beneficial use to the fee-generating development; to ensure that funds collected from impact-generating development are actually used to construct the infrastructure improvements within each fee category and the benefit district that serves new development; to ensure that funds collected from impact-generating development within a specific benefit district are spent only within that benefit district; and to provide for appropriate credits to the established fees. It is further the intent of this article to use impact fees to implement the city's general plan and major streets and routes plan.
- (2) It is not the intent of this article to collect any money from any impact-generating development in excess of the actual amount necessary to offset demands generated by that development for infrastructure system improvements for which the fee was paid.

DIVISION 2. FEE CALCULATION

Sec. 23A-81. Fee determination.

- (1) Fee schedule. Any person who applies for a building permit for an impact-generating development, except as otherwise provided in this article, shall pay impact fees in accordance with the following fee schedule. The impact fees have been calculated based upon the data provided by the respective impact fee studies.
 - (a) Arterial road impact fee schedule. The arterial road impact fee for residential structures, not including mobile homes and motel/hotel structures, as shown on the fee schedule below, represents a rate of ninety-three (93) percent of the full cost as determined by the impact fee study. If any credit is due pursuant to section 23A-82(2) and (3), the amount of such credit shall be deducted from the amount of the fee to be paid at the time the fee is paid.
 - (b) Regional park impact fee schedule. The regional park impact fee is eighty cents (\$0.80) per square foot of new residential development. This fee is based on the impact fee study and the data regarding the median household size provided in the public hearing. The regional park fee is not subject to the reduction of the fee provided in section 23A-81(8).
 - (c) Police, fire, and public facilities impact fee schedule. Impact fees shall be assessed for the impact of new development on police, fire and public facilities infrastructure needs. The

police, fire and public facilities impact fees shall be assessed in accordance with the schedule below.

**PLEASE NOTE:
Impact fees have been
updated. Click here for
new fee schedule.**

Impact Fee Schedule

	<u>Unit</u>	<u>Fee/Unit</u>	<u>Central District Fee/Unit</u>
Roads			
Residential			
Single-Family/Multi-Family	Sq. Ft.	\$2.00	\$1.54
Mobile Home	Dwelling Unit	\$2,553	\$1,965
Non-Residential			
General Retail/Commercial	1,000 Sq. Ft.	\$3,976	\$3,061
Hotel/Motel	Room	\$1,203	\$926
Office/Institutional	1,000 Sq. Ft.	\$4,724	\$3,637
Industrial/Warehousing	1,000 Sq. Ft.	\$2,039	\$1,570
Parks			
Residential	Sq. Ft.	\$0.80	
Police			
Residential			
Single-Family	Dwelling Unit	\$643	
Multi-Family	Dwelling Unit	\$476	
Mobile Home	Dwelling Unit	\$552	
Non-Residential	1,000 Sq. Ft.	\$699	
Fire			
Residential			
Single-Family	Dwelling Unit	\$469	
Multi-Family	Dwelling Unit	\$346	
Mobile Home	Dwelling Unit	\$402	
Non-Residential	1,000 Sq. Ft.	\$269	
Public Facilities			
Residential			
Single-Family	Dwelling Unit	\$477	
Multi-Family	Dwelling Unit	\$353	
Mobile Home	Dwelling Unit	\$410	
Non-Residential	1,000 Sq. Ft.	\$259	

(2) Annual fee adjustment. Impact fees shall be annually adjusted for inflation and cost increases based upon the most recent data available as of December 31st of each year. The annual adjustment shall then become effective on March 1st of each succeeding year. Annual adjustments for road and park fees shall first be assessed in March 2008. Annual adjustments for police, fire and public facilities fees shall first be assessed in March 2009 for residential uses and in 2010 for nonresidential uses. The impact fee adjustment pursuant to this section 23A-81(2) shall not exceed five (5) percent for the initial adjustment and each annual adjustment thereafter.

- (a) The cost adjustment for arterial road and park impact fees shall be based on the Engineering News Report, Construction Cost Index or comparable successor index if that index is discontinued. The adjustment shall be computed by:
 - 1. Calculating the percent increase in the Engineering News Report, Construction Cost Index between the most recently published Engineering News Report, Construction Cost Index at the time of the adjustment and the Engineering News Report, Construction Cost Index used for the previous calculation; and
 - 2. Multiplying the percentage derived from section 23A-81(2)(a)(1) above times the impact fee ; and
 - 3. Adding the amount derived in section 23A-81(2)(a)(2) above to the impact fee.
- (b) The cost adjustment for police, fire and public facilities fees shall be as follows:
 - 1. Eighty-five percent (85%) of the adjustment of police impact fees shall be determined based upon the increase in the Construction Cost Index and fifteen percent (15%) shall be determined based upon the increase in the Consumer Price Index since the last adjustment.
 - 2. Seventy percent (70%) of the adjustment of the fire impact fees shall be determined based upon the increase in the Construction Cost Index and thirty percent (30%) shall be determined based upon the increase in the Consumer Price Index since the last adjustment.
 - 3. Ninety-six percent (96%) of the adjustment of the public facility impact fees shall be determined based upon the increase in the Construction Cost Index and four percent (4%) shall be determined based upon increase in the Consumer Price Index since the last adjustment.
- (c) Any adjustment for revenue credits shall take into account any additional revenue sources for the projects for which impact fees are to be used and deduct any increased revenue credit in accordance with the formula used to establish the fee set forth in section 23A-81(1) above.

(3) Determination of applicable category.

- (a) In determining the applicable road impact fee category for a specific use, the impact fee administrator shall determine the most appropriate category based upon (1) the impact

generated by the development, (2) comparable land use classifications under the Land Use Code and (3), the comparable trip generation rates contained in the most current edition of the report titled Trip Generation, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal. If the impact fee administrator determines that the proposed use is not within any category listed on the fee schedule, the administrator may calculate the road impact fee administratively based on the formula in section 23A-85 and available data, or require that the applicant prepare an independent fee calculation study pursuant to section 23A-85. If the impact fee administrator determines the road impact fee administratively and the applicant does not agree with the determination, the applicant may prepare an independent fee calculation study. An applicant may also appeal a determination of a road impact fee pursuant to Sec.23A-92(2).

- (b) In determining the applicable regional park, police, fire and public facilities impact fees category for a specific use, the impact fee administrator shall determine the most appropriate category based upon (1) the impact generated by the development and (2) the comparable land use classifications. If an applicant disagrees with the calculation of the applicable regional park, police, fire or public facilities fees, that decision may be appealed pursuant to Sec. 23A-92(1). If an applicant disagrees with the determination of the applicable category for the assessment of regional park, police, fire or public facilities fees, that decision may be appealed pursuant to Sec. 23A-92(2). An independent fee calculation may not be made for regional park, police, fire and public facilities impact fees.
- (4) Fee assessed on primary use. If there is more than one (1) primary use within a building, the impact fees shall be calculated separately for the two (2) primary uses and the results summed. In many instances, a particular structure may include auxiliary uses associated with the primary land use. For example, in addition to the actual production of goods, manufacturing facilities usually also have office, warehouse, research, and other associated functions. Impact fees generally are assessed based on the primary land use. If the applicant can document that a secondary land use accounts for over twenty-five (25) percent of the gross floor area of the structure, and that the secondary use is not included in the data used for the calculation of the primary use, then the impact fees may be assessed based on the aggregated square footage of the primary and secondary land use.
- (5) Net impact of redevelopment. If a new impact-generating development is an expansion, redevelopment or modification of an existing development or a development that had been in existence within the prior ten (10) years, impact fees shall be assessed for the amount of square footage that exceeds the prior square footage of the structure. Increases in square footage of residential structures that do not create new dwelling units shall not be assessed an impact fee.
- (6) No refund for redevelopment. If an expansion, redevelopment or modification results in a net decrease in the impact fee for the new development as compared to the existing or prior development, there shall be no refund of impact fees previously paid.
- (7) Administrative charges. The city shall initially assess a surcharge of fifty dollars (\$50.00) to cover administrative expenses. The administrative charge may not be paid with impact fee credits. The administrative charge shall be in addition to the amount of the fee that is due and shall be paid at the same time as the fee. The administrative fee may be amended to reflect

the actual administrative costs by the development services department. Any amendment shall be adopted as a development standard with the approval of the mayor and council.

- (8) Fee assessed in central benefit district. The arterial road impact fee assessed in the central district in accordance with section 23A-81(1) is seventy-seven (77) percent of the fee assessed in the other districts based upon the reduced traffic impact of development within central benefit district documented in the impact fee study. Credits, pursuant to section 23A-82(2) and (3), shall be determined based upon the full value of each credit. This reduction does not apply to impact fees other than the impact fee for arterial roadways.
- (9) Cap on residential fees. The impact fees for residential uses that are calculated based on square footage shall be capped at three thousand (3,000) square feet for each dwelling unit.

Sec. 23A-82. Credits.

- (1) Public revenue credits. Public revenue credits have been deducted in the calculation of the impact fee amount stated in section 23A-81(1) as set forth in the respective impact fee studies.
- (2) Public funding credits.
 - (a) Where all or a portion of the construction of a development is directly funded with appropriated public funds duly authorized by a local, state or federal government, a public funding credit shall be deducted from the impact fee calculated in section 23A-81 or in the calculation of the fee pursuant to section 23A-85 prior to the assessment and payment of the fee. The public funding credit shall be a percentage of the impact fee and shall apply equally to all impact fees. The percentage shall be determined based upon the amount of public monies as a percentage of the total cost of the construction of the development project utilizing public funding. The public funding credit shall not apply to guaranteed loans, tax credits or other indirect government financing.
 - (b) Where construction of infrastructure which is an eligible expenditure of impact fees in accordance with section 23A-84 is financed by a municipal improvement district or community facilities district, or other similar special taxing district with governmental authority, a public funding credit shall be deducted from the impact fee as calculated in section 23A-81 or as calculated in section 23A-85 after the fee calculation and prior to the assessment and payment of the fee. The public funding credit shall be a percentage of the impact fee. The percentage shall be determined based upon the amount of public monies that are to be used as a percentage of the construction cost of the eligible infrastructure utilizing public funding.
- (3) Site-specific credits. Credits against the impact fees shall be provided for contributions towards infrastructure capacity improvements as defined herein regardless of whether the infrastructure is listed in the city's capital improvement plan and the impact fee projects plan. Both the improvements and the use of the credit must be within the same benefit district as the development for which the credits are claimed. Credits shall be submitted and approved in accordance with the applicable development standard.
 - (a) Credit eligibility. For roads, credit will be given for capacity improvements to the arterial road system that are required and approved by the city. Capacity improvements are defined as the construction of additional through vehicular travel lanes, and the

construction of new traffic signals, left turn lanes, bus pull-outs, and drainage structures that add capacity to the arterial roadway system. Said arterial roadway capacity improvements shall not include site-specific and site-fronting safety and access improvements required by existing codes, standards, ordinances or guidelines. Providing required paved, all-weather access to the developing property shall not be considered a capacity improvement. For parks, credit will be given for dedication of land for regional park facilities or capacity improvements to regional park facilities provided by the developer of the type for which the impact fee is assessed. For police, fire and public facilities, credit will be given for dedication of land and other infrastructure capacity improvements for the respective facilities that are comparable to those upon which the fee is calculated. Capacity improvements are defined as improvements that result in a net expansion of the type of infrastructure that was used in the respective impact fee studies to calculate each impact fee. A proposal for dedication of land or construction of infrastructure improvements must be approved by the City before it is eligible for credit.

- (b) Claims for credit and credit calculation. The city requests that the developer submit a preliminary claim for credit during the development review process, prior to the approval of a development plan or final plat. Any credit for improvements in conjunction with a rezoning shall be agreed to in the rezoning conditions and approved by the impact fee administrator. All associated costs of eligible capacity improvements will be considered for credit. Associated costs include the design, contract administration, and construction costs for improvements and include all elements of the roadway that are approved by the city such as medians, curbs, sidewalks, turn lanes, landscaping and public art. The value of road credits shall be calculated using a table of fixed roadway improvement costs provided by the city to the developer. The value of credits shall be calculated at the same time that the impact fee is calculated and shall be deducted from the assessed fee to determine the amount due. The developer shall submit a request for credit in such form as maybe prescribed by the impact fee administrator, which shall include completed engineering drawings and specifications, and shall provide such other information as is necessary for the impact fee administrator to clearly identify what portion of the assumed cost eligible infrastructure improvements will be constructed, and the amount of the credit to which the developer is entitled.
- (c) Effective upon city acceptance. Approved credits shall generally become effective when the improvements have been completed and have been accepted by the city. Credits may be applied in advance against impact fees for the same development prior to the acceptance of the improvements by the city provided that no more than seventy-five (75) percent of the total credits are used prior to acceptance and that the developer is liable for any difference between the credits that are advanced and the final amount of credits approved after acceptance of improvements.
- (d) Limitation on credits. No credit will be given for improvements which are not included in the calculation of the impact fee.
- (e) Land valuation. Credit for dedication of land for regional parks, police, fire or public facilities shall be based on the value of the land to be dedicated. The value of any such land required to be dedicated during the subdivision process shall be based upon the "fair market value" of the land at the time of approval of the final plat. The value of any land required to be dedicated as part of a rezoning or other approval shall be based on

- (f) Allocation of credits within a development. Unless otherwise specified in accordance with the applicable development standard or a development agreement, in the event that the impact-generating development for which credits have been issued is sold to different owners, the credits usable by each new owner shall be calculated in terms of a percentage of the impact fees that would otherwise be due from the entire development. If the total amount of development is not known, the maximum potential development under existing development regulations shall be assumed. This percentage reduction will be applied to all impact fees assessed within the development until the total amount of the credits is exhausted or the development is completed, whichever occurs first.
- (g) Allocation of credits outside a development. In accordance with a credit agreement between the city and the developer of a property, all or part of the credits generated by a specific development may be allocated to other developments within the benefit district in which improvement occurs. In evaluating requests to allocate credit outside a development, the city will determine whether the capacity improvements are necessary and appropriate in the context of the overall impact fee program and assess the need for and timing of the proposed facility in light of development taking place in the area. Credit agreements under this subsection shall be approved by the city manager who may refer them to the mayor and council.
- (h) Credits prior to full fee assessment. Applicants may also obtain credits for eligible infrastructure improvements completed prior to the effective date of this article. Applicants may use such credits to reduce the impact fees due after the effective date of this article for improvements generated by the same impact-generating development for which the credits were issued. In the event that the impact-generating development for which the credits are claimed is partially completed, the amount of the credits shall be reduced by the amount of the impact fees that would have been charged for the completed portion of the development had this article been in effect. In the event that the impact-generating development project has been fully completed, no credits shall be issued.
- (i) Credits for expenditures prior to annexation. Credits may be claimed for eligible expenditures made prior to annexation into the city provided that the improvements are within the applicable benefit district at the time the credit is claimed. Credits under this subsection shall be a percentage of the full credit that is equal to the percentage of the development that will be subject to the fees. Thus if sixty (60) percent of the development is subject to the fees under this article, the project is eligible for sixty (60) percent of the credits attributed to the development.
- (j) Claims filed before building permits. Credits must be approved prior to the application for the initial building permit. Credits may be approved by development agreement prior to the initial building permit. Any right to credit not claimed prior to the issuance of a building permit shall be deemed to be waived. Credits may be amended after assessment of the impact fee in accordance with section 23A-91(3).

Sec. 23A-83. Exemptions and waivers.

- (1) Exemptions. The following shall be exempt from the terms of this article. An exemption must be claimed at the time of application for a building permit.
 - (a) Residential alterations. Alterations of an existing dwelling unit where no additional dwelling units are created.
 - (b) Residential replacement. Replacement of a destroyed, partially-destroyed or moved residential building or structure with a new building or structure that does not create additional dwelling units.
 - (c) Nonresidential replacement. Replacement of destroyed, partially-destroyed or moved nonresidential building or structure with a new building or structure and same gross floor area.
 - (d) Nonresidential change of use. A change of use for a nonresidential structure that does not result in any increase in gross floor area of the structure.
 - (e) Government projects. Development by a governmental entity for a governmental purpose on property owned by a governmental entity.
- (2) Waivers. Impact fees shall not be waived except in accordance with the provisions set forth in this subsection. When impact fees are waived, the city shall transmit non-impact fee funds to cover the waivers into the appropriate impact fee account within the fiscal year in which the waiver is granted.
 - (a) Affordable housing. Impact fees will be waived for non-profit affordable housing providers whose residential development is certified by the City of Tucson Community Services Department to be affordable to households that earn under one hundred (100) percent of the area median income and that further the goals of the city's Affordable Housing Strategies.
 - (b) Development incentives. Through a development agreement between the city and the developer of a property, partial or full impact fee waivers may be granted for projects that provide a public benefit to the City of Tucson and result in a net financial benefit to the city.

Sec. 23A-84. Expenditure of funds.

Impact fees collected by the city shall be spent as follows.

- (1) Segregation of funds. Separate interest-bearing accounts for each category of impact fee funds that are distinct from the general fund of the city are hereby created for each benefit district, and the impact fees collected from each benefit district will be deposited in the separate fund for the benefit district from which the impact fees are collected. Separate funds shall be established for each benefit district for arterial road impact fees and for regional park impact fees. Separate funds shall be established for a single city-wide benefit district for police, fire and public facilities impact fee funds.

- (2) FIFO accounting. Monies in each impact fee account shall be considered to be spent in the order collected, on a first in/first out basis.
- (3) Benefit districts. Impact fees shall be spent only within the benefit district in which the development that generates the impact fee occurs. For the purposes of administering this article, all territory within the incorporated boundaries of the city shall be included in a benefit district. Expenditure of funds within a benefit district, and within the city limits for city-wide benefit districts, shall only be for the infrastructure to support new development.
 - (a) Road and park benefit districts. The benefit districts for road and park impact fees are set forth on the impact fee benefit district map on file with the development services department. The area of each benefit district shall extend to the center line of the street which forms the boundary of the district. Impact fees shall be used only for improvements that are located within the same benefit district in which the development occurs which is the subject of the impact fee and from which the impact fees have been collected.
 - (b) Police, fire and public facilities benefit districts. The benefit district for the police, fire and public facilities impact fees shall be all property within the city limits.
- (4) New territory. Upon annexation of new territory into the city, newly annexed territory shall be included in existing road and park benefit districts in the following manner based on the alignments as shown on the Major Streets and Routes map. Newly annexed territory shall be included in the single citywide benefit district for police, fire, and public facilities.
 - (a) Property east of Shannon Road and Interstate 10, north of Fort Lowell Road and west of Alvernon Way shall be in the central benefit district.
 - (b) Property west of Shannon Road and north of Wetmore, west of Interstate 10 between Wetmore and Alvernon Way, west of Alvernon Way, and north of Hughes Access Road to the western city limit shall be in the west benefit district.
 - (c) Property east of Alvernon Way, north of Los Reales Road between Alvernon Way and Wilmot Road and north and east of Golf Links Road to the city limit shall be in the east benefit district.
 - (d) Property east of Wilmot Road, south of Golf Links Road and northeast of Interstate 10 from Wilmot Road to the southeast city limit shall be in the southeast benefit district.
 - (e) Property south of Hughes Access Road and west of Alvernon Way, and property south of Los Reales Road and west of Interstate 10 shall be in the southlands benefit district.
- (5) Identification of eligible projects. Impact fees shall be spent only upon eligible projects that provide the same type of capacity infrastructure improvements within each impact fee category as those used to calculate the fee in the respective impact fee studies and that are within the benefit district in which the fee is collected. The city's capital improvement plan shall include an impact fee projects plan that lists the projects within each benefit district which are eligible for use of impact fees. The impact fee projects plan shall be reviewed on an annual basis as part of the capital improvement plan. The impact fee projects plan may be modified following a public hearing by the mayor and council.

- (6) Public hearing. The impact fee projects plan shall be established following a public hearing on proposed projects prior to or concurrent with the annual approval of the capital improvement plan.
- (7) Eligible expenditures. The monies used in each impact fee account shall be used only for the following purposes.
 - (a) To pay for the cost of capital improvements of the type reflected in the title of the account which increase service capacity (including without limitation costs for design, engineering, construction and administration); and
 - (b) To pay for the acquisition of real property for regional parks, police, fire, or public facilities; and
 - (c) To pay debt service on any portion of any current or future general obligation bond or revenue bond issued after the effective date of this article and used to finance improvements of the type reflected in the title of the account.
- (8) Ineligible expenditures. The monies in each impact fee account shall not be used for the following.
 - (a) Rehabilitation, reconstruction, replacement or maintenance of existing facilities except to the extent that the projects increase the capacity to serve new development;
 - (b) Ongoing operational costs; or
 - (c) Except as provided in section 23A-84(9) below, debt service for any past, current or future general obligation bond or revenue bond used to pay for any improvements commenced prior to the effective date of this article.
- (9) Joint governmental financing. Where there is an intergovernmental agreement approved by the mayor and council that provides for the use of non-city public funds for capacity improvements on city arterial roads, regional parks, police, fire, or public facilities within the city, impact fees may be used to contribute to the overall cost for such improvements, including reimbursement to another governmental entity, provided that the improvements, except for the funding from another jurisdiction, satisfy all criteria for expenditure of impact fees and provided the total amount does not exceed the amount of fees that could have been applied to the improvements in the absence of the funding by the other governmental entity.
- (10) Special development agreement provisions. Where a development agreement approved by the mayor and council provides for reimbursement to a developer eligible infrastructure improvements, the reimbursement may be paid from impact fees for the same benefit district in which the improvements are located as fees are collected. Any such reimbursement shall be deducted from the amount of available credits.
- (11) Master planned developments. Development of tracts of land as master planned developments in conformance with the general plan may provide through a development agreement approved by the mayor and council for alternative calculation and assessment of impact fees, credits and designation of projects to be funded provided the alternative fees are not less than the fees that would be charged under section 23A-81 and the funding of eligible

infrastructure is not less, respectively, than the funding that would be provided under section 23A-81.

- (12) Time for expenditure. Impact fees collected by the city shall be spent upon eligible improvements within a reasonable period from the date of collection. Impact fees which are not spent within the same year that they are collected may be spent in subsequent years as provided above. The city shall annually report on the amount of impact fee within each benefit district which are carried over from previous years.
- (13) Advance expenditure of fees. Where the city or another governmental entity expends funds on capacity improvements which are eligible for use of impact fees, impact fees collected within the same benefit district may be used after collection to reimburse the governmental fund which advanced the money for the cost of the capacity improvements.
- (14) Designation of arterial roads. Arterial roads shall be designated in the city's major streets and routes plan which shall be updated annually at least thirty (30) days prior to the public hearing on the eligible projects provided for in section 23A-84(6). During the time period between the adoption of each annual update to the major streets and routes plan, the director of the department of urban planning and design may designate any road that meets the criteria for an arterial road as an arterial road for the purposes of this article. Such designation shall be proposed for incorporation into the next updated major streets and routes plan. In the event that a designation by the director is not incorporated into the next adopted major streets and routes plan, any impact fees or credits that were assessed or credited during the time of the designation shall not be effected by the change in designation.

Sec. 23A-85. Independent fee calculation.

The impact fee may be computed by the use of an independent fee calculation study for arterial road impact fees at the election of the applicant, or upon the request of the impact fee administrator, for any proposed development that is not within a standard category in the most current edition of the report titled Trip Generation, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal, that were used to obtain the average fee for the categories listed on the fee schedule. This section does not apply to fee calculation in accordance with section 23A-84(10) and (11).

- (1) Cost of study; fee. The preparation of the independent fee calculation study shall be the sole responsibility and cost of the applicant. Any person who requests to perform an independent fee calculation study shall pay an application fee for administrative costs associated with the review and decision on such study.
- (2) Content of study. The independent fee calculation study shall be based on the same service units, formulas, level of service standards and unit costs for facilities used in the impact fee study, and shall document the methodologies and assumptions used. The scope of the study shall be approved in advance by the impact fee administrator and shall be prepared by professionals with appropriate credentials who shall use commonly accepted methodologies and assumptions that comply with the requirements of applicable law and which document the conclusions of the study. For the road impact fee, the fee calculation shall use trip generation rates contained in the most current edition of the report titled Trip Generation, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing

in the ITE Journal. The "cost" for improvements and the public revenue credits to be calculated in the formula shall be based upon the most current data available from the city.

- (3) Road impact fee formula. The road impact fees shall be calculated according to the following formula:

TABLE INSET:

$$\text{FEE} = \text{VMT} \times \text{NET COST/VMT}$$

Where:

$$\text{VMT} = \text{TRIPS} \times \% \text{ NEW} \times \text{LENGTH} \div 2$$

TRIPS = Trip ends generated by the development during the PM peak hour

% NEW = Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips

LENGTH = Average length of a trip on arterial road system $\div 2$

= Avoids double-counting trips for origin and destination

NET COST/VMT = COST/VMT - REVENUE CREDIT/VMT

COST/VMT = COST/VMC \times VMC/VMT

COST/VMC = Average cost to create a new VMC based on historical or planned improvements

VMC/VMT = The system-wide ratio of capacity to demand in the major road system

REVENUE/CREDIT/VMT = Revenue credit per VMT, based on revenues to be generated by new development

- (4) Independent fee approval. The impact fee administrator determines whether the independent fee study and calculation are in conformance with this article and assesses impact fees accordingly.

Sec. 23A-86. Assessment and payment of fees.

Impact fees shall be assessed and paid as follows.

- (1) Residential development. Commencing July 15, 2005, residential road and park impact fees shall be assessed and paid prior to, and as a condition of, the issuance of a building permit for construction of a structure. For the period from July 15, 2005 through and including January 15, 2006, impact fees on residential development shall be initially assessed at a rate of fifty (50) percent of the fee listed in section 23A-81(1). The fee shall be fully assessed and paid thereafter. Residential police, fire and public facilities impact fees shall be assessed commencing January 16, 2008.
- (2) Nonresidential development. Nonresidential impact fees shall be assessed on the basis of square footage in the following manner:
- a. Commencing July 15, 2006, and prior to January 16, 2008, road impact fees on new nonresidential development shall be assessed at fifty percent (50%) of the fee established in section 23A-81 and shall be paid prior to, and as a condition of, the issuance of a building permit for a project.
 - b. Commencing January 16, 2008, road impact fees on all new nonresidential development shall be assessed at one hundred percent (100%) of the fee established in section 23A-81

and shall be paid prior to, and as a condition of, the issuance of a building permit for a project.

- c. Commencing January 16, 2009, police, fire and public facilities fees shall be assessed on all nonresidential development in accordance with section 23A-81 and shall be paid prior to, and as a condition of the issuance of a building permit for a project.
 - d. For the purposes of this section, nonresidential impact fees will be due and payable on new nonresidential development when a building permit is issued unless the permit is for a shell building where occupancy has not yet been defined. For shell buildings where occupancy has not yet been defined, the impact fees will be due and payable when a Tenant Improvement permit is obtained on all or a portion of the space within the shell building.
 - e. Assessment of fees for a building permit for redevelopment of existing structures shall be assessed in accordance with section 23A-81(5).
 - f. Exemptions:
 - 1. Subsection 23A-86(2)a. shall not apply to a building permit where the square footage to be constructed is based upon a new or amended development plan that was accepted for submittal by DSD prior to April 1, 2006, approved by October 1, 2006, and which is not expired as provided in LUC Sec. 5.3.8.2.
 - 2. Subsection 23A-86(2)(b) shall not apply to a Tenant Improvement permit where the square footage to be constructed is based upon a new or amended development plan that was accepted for submittal by DSD prior to April 1, 2006, approved by October 1, 2006, and which is not expired as provided in LUC Sec. 5.3.8.2; and where the permit for the shell building is obtained before January 16, 2008 and the Tenant Improvement permit is obtained within twelve (12) months of the permit for the shell building.
 - 3. Subsection 23A-86(2)(c) shall not apply to a building permit issued prior to January 16, 2010, where the square footage to be constructed is based upon a new or amended development plan or plat that was accepted for submittal by DSD prior to July 10, 2007, approved by January 10, 2008, and which is not expired as provided in LUC Sec. 5.3.8.2.
 - g. Prior to and as a condition of the issuance of every certificate of occupancy after July 16, 2006, the applicant shall demonstrate that the structure to be occupied has conformed to this article. Where the original assessment of impact fees was less than the impact fees that would be assessed based upon the use specified in the certificate of occupancy, the difference between the two shall be paid by the applicant prior to the issuance of the certificate. No refunded fees shall be provided where the original use was assessed higher fees. A certificate of occupancy shall include both temporary and permanent certificates of occupancy and certificates for all or a portion of a structure.
- (3) This article shall not be altered or extended by or subject to a Protected Development Rights Plan under Sec. 5.3.10.

DIVISION 3. GENERAL PROVISIONS

Sec. 23A-91. Miscellaneous provisions.

- (1) Other development requirements. Nothing in this article shall restrict the city from requiring the construction of reasonable project improvements required to serve the development project, whether or not such improvement are of a type for which credits are available under 23A-82(3).
- (2) Record-keeping. The impact fee administrator shall maintain accurate records of the impact fees paid and any other matters that the city deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice. Records pertaining to individual developments may be destroyed three (3) years after the completion of the development or the expenditure of all credits, whichever is later.
- (3) Amendment of impact fee assessments. An impact fee may be amended after it has been assessed and paid where there is an error or mistake in the calculation of the fee or applicable credits, or where the actual cost of credits changes after the calculation of the credits. Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within thirty (30) days after the acceptance of the recalculated amount. Any amounts underpaid by the applicant shall be paid to the impact fee administrator within thirty(30) days after the acceptance of the recalculated amount. In the case of an underpayment to the impact fee administrator, the city may not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the city are not paid within such thirty (30) day period, the city may also rescind any permits issued in reliance on the previous payment of such impact fee.

Sec. 23A-92. Appeals and interpretations.

- (1) Appeals. Any individual calculation of an impact fee or credit made by the impact fee administrator charged with the administration of any part of this article may be appealed in accordance with the mayor and council appeal procedure, section 23A-62. Appeals shall be limited to disputes regarding the calculation of the fee due or the amount of a credit due. Appeals shall be submitted in writing to the development services department director within fourteen (14) days of a decision and no later than fourteen (14) days after the determination of the final fee to be charged for a project.
- (2) Interpretations. Any dispute or challenge to the interpretation of this article shall be determined by the zoning administrator. The zoning administrator's decision may be appealed within thirty (30) days in accordance with the board of adjustment appeal procedure, section 23A-61.
- (3) Takings appeal. Any assertion that the assessment of the impact fee on an individual development constitutes an unconstitutional taking may be appealed in accordance with the takings appeal procedure, section 23A-63.

- (4) Building permits. Building permits may be issued during the pendency of an appeal if the applicant pays the fee at the time the appeal is filed. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered and a refund if applicable.

Sec. 23A-93. Violation.

Furnishing false information on any matter relating to the administration of this article, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this article.

Sec. 23A-94. Severability.

If a provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Sec. 23A-111. Definitions--A.

Advisory board . The historic district advisory board established pursuant to section 5.1.10 of the LUC.

Applicant. The applicant for a building permit for which an impact fee is due pursuant to the provisions of this article.

Arterial road system . Arterial roads identified on the city's major street and routes plan that are the responsibility of the City of Tucson or which are designated in accordance with section 23A-84(14).

Arterial road (system) improvements. Improvements that expand the capacity of the arterial road system, including but not limited to construction of new roads or the widening of existing roads, roadway pavement, curbs and curb cuts, bridges, sidewalks, pedestrian facilities, trails, drainage structures, medians, street lighting, landscaping and irrigation, one (1) percent public art, intersection improvements, acceleration and deceleration lanes, turn lanes, parking lanes, traffic signals and other similar improvements constructed in conjunction with an arterial road capacity improvement. Ancillary components of a capacity-expanding road improvement shall not be considered system improvements when not an integral part of a capacity-expanding improvement.

Sec. 23A-112. Definitions--B (Reserved).

Sec. 23A-113. Definitions--C.

CDRC. Acronym for community design review committee.

Community design review committee. The community design review committee (CDRC) is established as an advisory body for the review of land development proposals within the city. Establishment, composition, and function of the CDRC are provided in Development Standard 1-03.0.

Conformance. To be in agreement with; to comply with.

Credit. There are three (3) types of credits: public revenue credits, public funding credits, and site-specific credits as defined in section 23A-82.

Sec. 23A-114. Definitions--D.

Director. The director of the development services department.

DSD. The development services department.

Sec. 23A-115. Definitions--E (Reserved).

Sec. 23A-116. Definitions--F (Reserved).

Sec. 23A-117. Definitions--G (Reserved).

Sec. 23A-118. Definitions--H (Reserved).

Sec. 23A-119. Definitions--I.

Impact fee administrator. The development services department director or designee.

Impact fee or fees. The road, park, police, fire and public facilities impact fees collectively unless a specific impact fee is described.

Impact fee study. The Road and Park Impact Fee Study prepared for the City of Tucson by Duncan Associates in June 2004, and the City of Tucson Impact Fee Study: Police, Fire, Public Facilities prepared by the Department of Urban Planning & Design dated May 2007, or a subsequent similar report.

Impact-generating development: Any land development designed or intended to permit a use of the land that will increase the number of service units.

Sec. 23A-120. Definitions--J (Reserved).

Sec. 23A-121. Definitions--K (Reserved).

Sec. 23A-122. Definitions--L.

Land Use Code. It is Chapter 23 of the Tucson Code and contains the zoning regulations for the City of Tucson.

LUC. Same as the Land Use Code.

Sec. 23A-123. Definitions--M (Reserved).

Sec. 23A-124. Definitions--N.

Neighborhood association. A neighborhood association registered with the city's department of neighborhood resources.

Sec. 23A-125. Definitions--O (Reserved).

Sec. 23A-126. Definitions--P.

Party of record. Party of record includes the applicant, all persons who received notice of the application during the review process, all persons who provided a written statement of an interest in the project prior to the issuance of a decision, and all persons who gave testimony at a public hearing.

Plans review subcommittee. The same as the Tucson-Pima County Historical Commission Plans Review Subcommittee.

Public funding credit. Public funding credits are credits for funds directly appropriated by local, state and federal governments to pay for all or a portion of a development in order to satisfy a public purpose or the funding of construction of eligible improvements with money from municipal improvement districts, community facilities districts or similar special taxing district with governmental authority. Public funding credits do not include indirect public funding through loans, loan guarantees, tax credits or similar indirect financing. Public funding credits are determined by multiplying the percentage of public money provided for the construction of the project by the amount of the impact fee in accordance with section 23A-82.

Public revenue credits. Public revenue credits are credits for funds from local, state and federal taxes and other public revenues which are used in the construction of the public improvements that are the subject of the impact fee. Public revenue credits are subtracted before the impact fee is determined in accordance with section 23A-82.

Sec. 23A-127. Definitions--Q (Reserved).

Sec. 23A-128. Definitions--R.

Regional park. A park that has at least fifteen (15) acres and provides facilities such a pool, soccer fields, baseball fields, basketball court, recreation center, concert stage or other such facilities for regional recreational uses.

Regional park system. Park land, facilities and improvements to city-owned land used for active and passive recreational purposes and associated recreational facilities, and recreational facilities and improvements made or installed by the city in regional parks and available for public use.

Regional park (system) improvements. Capital improvements that result in a net expansion of the park land or recreational facilities in regional parks that are available to the public. Remodeling, replacement or maintenance of existing equipment or facilities does not constitute a regional park system improvement.

Sec. 23A-129. Definitions--S.

Service units. Vehicle-miles of travel and equivalent dwelling units.

Site-specific credits. Credits are given to developers for construction of capacity improvements that are included in the calculation of the impact fees.

Sq. ft. --Same as Square Foot.

Square foot. As used for the calculation of impact fees is the same as the square footage used for determination of the issuance of building permits.

Sec. 23A-130. Definitions--T (Reserved).

Sec. 23A-131. Definitions--U (Reserved).

Sec. 23A-132. Definitions--V.

Vehicle-miles of capacity (VMC). The product of the maximum number of vehicles that can be accommodated on a roadway during an hour and the length of the roadway in miles.

Vehicle-miles of travel (VMT). The product of the number of vehicles traveling during the afternoon peak hour of a week day and the distance in miles that those vehicles travel.

Sec. 23A-133. Definitions--W (Reserved).

Sec. 23A-134. Definitions--X (Reserved).

Sec. 23A-135. Definitions--Y (Reserved).

Sec. 23A-136. Definitions--Z (Reserved).