

CITY OF TUCSON, ARIZONA
OFFICE OF THE CITY MANAGER

COMPLIANCE WITH SB 1525
RECOMMENDED ACTION PLAN PRIOR TO
JANUARY 1, 2012 EFFECTIVE DATE

December 10, 2011

CITY OF TUCSON, ARIZONA
OFFICE OF THE CITY MANAGER

COMPLIANCE WITH SB 1525
RECOMMENDED ACTION PLAN PRIOR TO
JANUARY 1, 2012 EFFECTIVE DATE

PREPARED BY



CURTIS LUECK & ASSOCIATES

5460 WEST FOUR BARREL COURT
TUCSON, ARIZONA 85743
(520) 743-8748
CLA PROJECT No. 2010.13

December 10, 2011

Table of Contents

INTRODUCTION and Executive Summary	1
Overview of SB 1525	1
Chronology of Tucson’s Development Fee Program	1
Summary of Recommendations.....	3
RECOMMENDATIONS FOR CONFORMING TO §9-463.05(AS AMENDED)	4
New Account Categories.....	4
Conforming Development Fees with SB 1525	4
General Government Facilities	4
Parks and Recreation Facilities	4
Roadway Facilities.....	5
Fire and Police Facilities.....	5
Automatic Annual Adjustment in Development Fees	6

List of Exhibits

Exhibit 1	City of Tucson Necessary Public Service and Development Fee Profile	2
Exhibit 2	Recommended Interim Fees Effective January 1, 2012.....	6

INTRODUCTION AND EXECUTIVE SUMMARY

Overview of SB 1525

On April 26, 2011, Governor Brewer signed Senate Bill 1525 (Chapter 243, First Regular Session, 2011), which significantly alters the structure of development fee programs for Arizona municipalities. In essence, SB 1525 completely rewrote A.R.S. §9-463.05, the statute that enabled municipalities to assess, collect and spend development fees. Under the new requirements, any new development fee adopted after the January 1, 2012 effective date must comply with §9-463.05 as amended.

Pursuant to §9-463.05(K), a municipality may continue to assess any development fee it adopted prior to January 1, 2012 until August 1, 2014, but the municipality must replace the existing fee with one consistent with the new law on or before that deadline. This section, however, limits the continuation of existing development fees past January 1, 2012 and until August 1, 2014 to development fees that “will be used to provide a necessary public service for which development fees can be assessed pursuant to this section.”

SB 1525 has been described as “essentially a complete rewrite of Arizona’s development fee statute.” It amended all but two subparagraphs and added “some 14 pages of statutory language” to the existing statute. Summarizing the impacts of changes that are so sweeping is not easy, but for the purposes of this report, the major changes can be categorized as substantive and procedural. One of the stated goals of the legislature was to reaffirm the nexus between the development impacts and the fees assessed to offset the impacts, and to create a more consistent program across the state of Arizona.

The City Manager’s Office contracted with Curtis Lueck & Associates (CLA) to provide an independent review of the city of Tucson’s current development fees and to recommend to the City what programmatic and interim changes are necessary by January 1, 2012 to conform with A.R.S. §9-463.05(K). We also conducted a brief survey of peer jurisdictions to verify consistency of approach.¹ The survey is summarized in the appendix, and we conclude that the approach undertaken herein is very similar to what is being done by others. This is further reinforced by a recent memorandum from the Arizona League of Cities and Towns which provides general legal interpretation of the actions needed by the end of this year.

Chronology of Tucson’s Development Fee Program

Mayor and Council first approved a water development fee (the System Equity Fee) on May 12, 2003. On September 27, 2004, Mayor and Council approved Ordinance No. 10053, creating development fees for roads and parks. Mayor and Council established five benefit areas for roadway development fees. In four of the benefit areas, fees would be the same, while in the Central benefit area fees would be 77 percent of the regular fees. The ordinance created the park fee as a citywide fee. The ordinance established roadway development fees for both residential and non-residential land uses, but only on residential uses for parks.

¹ The legislative changes resulted from perceived inconsistencies and misuse of impact fee by some jurisdictions. In response to SB 1525, the Arizona League of Cities and Towns prepared a model ordinance to assist cities with implementation and to provide more consistency statewide. This is also the reason for the survey.

Ordinance No. 10053 phased-in development fees. For residential land uses, development fees became effective on July 15, 2005 at 50% of the fee and at 100% of the fee on July 15, 2006. The ordinance provided a phase-in for non-residential fees, with fees at 50% effective on July 15, 2006 and at 100% on January 1, 2008. Mayor and Council revisited the phase-in schedule for non-residential fee in December of 2004 and again in February of 2006, at which time they reinstated the original schedule. Ordinance No. 10053 also provided for an annual, automatic adjustment of development fees, beginning on July 15, 2008.

On August 6, 2007, Mayor and Council approved Ordinance No. 10442, which rescheduled the automatic annual fee adjustment for roads and parks to March 2008. The ordinance also established development fees, both residential and non-residential for police, fire, and general government facilities. Exhibit 1 summarizes our recommended changes to development fees, and describes the City’s profile regarding necessary public services and development fees, under the current statute and relative to SB 1525. For example, Pima County provides library services through the Pima County Library District and Wastewater through the Regional Wastewater Reclamation Department, so development fees for these two services are not applicable to the City.

The City does collect fees for general government facilities, but SB 1525 eliminates this category from the list of eligible necessary public services.

Exhibit 1 City of Tucson Necessary Public Service and Development Fee Profile

Existing Development Fees	Provides Service	Currently Assesses Fee		Eligible Under SB 1525	Current Fee	Proposed Fee
		Residential	Non-Residential			
Roads	Y	Y	Y	Y	\$2.15/sf	\$2.15/sf
Parks	Y	Y	N	Y	\$0.86/sf	\$0.86/sf
Library	N	NA	NA	NA	NA	NA
Police	Y	Y	Y	Y	\$674/sfd	\$543/sfd
Fire	Y	Y	Y	Y	\$488/sfd	\$357/sfd
General Government	Y	Y	Y	N	\$501/sfd	\$0
Water	Y	Y	Y	Y*	NA*	NA*
Stormwater, Drainage, Flood Control	Y	N	N	Y	NA	NA
Wastewater	N	NA	NA	NA	NA	NA

*Example fees shown are for residential (single family dwellings). Roads fees are lower in Central District. Nonresidential fees are collected for all but parks. *Tucson Water fees are implemented via other statutes and therefore not evaluated herein.

The City does provide “stormwater, drainage, and flood control services,” but does not currently assess development fees for these services. If the City decides to adopt a development fee for these services, it would need to plan facilities, calculate fees, and adopt a new ordinance consistent with A.R.S. §9-463.05 as amended.

Tucson Water collects two growth-related fees – System Equity Fee and CAP Water Resource Fee. Tucson Water collects both fees pursuant to §9-511.01, rather than §9-453.05. Both fees are “buy-in” fees that collect from new development its fair share of costs already incurred to provide the portion of system capacity and water resources that the new development now consumes. Accordingly, these fees are not subject to SB 1525, and, therefore, are not included in this report.

The City assesses and allocates development fees for roads and parks and recreation within five benefit districts. The City assesses and allocates development fees for fire and police on a citywide basis.

All of the current development fee rates are derived using a “consumption method” analysis, whereas the expenditures are defined using an infrastructure investment plan. Importantly, under the new legislation, a plan basis is required for calculating the fee and spending accrued revenues.

Summary of Recommendations

CLA recommends five specific actions (two ordinance changes and three administrative actions) for the City to implement to conform to A.R.S. §9-463.05(k):

Recommendation 1: Amend the fee ordinance to delete the General Government Facilities fee.

Recommendation 2: Amend the fee ordinance to delete provisions for automatic annual adjustments in development fee rates.

Recommendation 3: Administratively decrease the Fire Fee based on the recalculation.

Recommendation 4: Administratively decrease the Police fee based on the recalculation.

Recommendation 5: Administratively establish new account categories to administratively segregate development fees collected after January 1, 2012 from revenue collected before January 1, 2012.

The fees for roads and parks can remain unchanged pending future preparation of Infrastructure Improvement Plans (IIPs), which could result in modified fees by the August 1, 2014 due date. The fees for fire and police will also be subject to updated IIPs, which may result in further fee revisions. Finally, as noted above, Tucson Water fees are not subject to the new legislation and are not addressed in this analysis.

RECOMMENDATIONS FOR CONFORMING TO §9-463.05(AS AMENDED)

In reviewing the current fee structure, CLA concentrated on amendments to the City's internal policies and development fee ordinance (Chapter 23A, Article III) by January 1, 2012, to (1) administer new account categories to distinguish between development fees collected up to December 31, 2011 and after January 1, 2012; (2) conform with new definitions of necessary public service and deleting disallowed elements from fee calculations and reducing fees as necessary; and (3) deleting provisions for automatic annual increases in development fees in the City Code.

New Account Categories

A.R.S. §9-463.05(K) permits municipalities to continue collecting development fees for necessary public services until August 1, 2014, or until a municipality adopts a new development fee ordinance. City Code section 23A-84, expenditure of funds, provides for the segregation of development fee funds from the general fund of the City. Development fee funds are placed into separate interest bearing accounts for each category of development fee and for each benefit area. We recommend that the City administratively create separate interest bearing accounts for development fee funds collected after January 1, 2012 to segregate these funds from those development fee funds collected prior to January 1, 2012.

Conforming Development Fees with SB 1525

General Government Facilities

General government facilities are now entirely eliminated from the definition of "necessary public services." A.R.S. §9-463.05(B)(5), as amended, states that development fees may not be used for "(A) construction, acquisition, or expansion of public facilities or assets other than necessary public services..." §9-463.05(T)(5), as amended, defines necessary public services and does not include general government facilities, which City Code, Chapter 23A, Article III, refers to as "public facilities." Therefore, CLA recommends that Chapter 23A, Article III, be amended to delete all references to "public facilities."

On August 6, 2007, Mayor and Council approved Ordinance No. 10442, which established development fees, both residential and non-residential, for general government (public) facilities. Through September 30, 2011, the City collected \$1,337,207 in development fees for general government facilities and earned \$6,670 in interest. As of September 30, 2011, there was a balance of \$1,343,877 in this development fee account. CLA recommends that fees collected prior to December 31, 2011 be spent expeditiously in a manner consistent with current law, and the account for the fee be administratively closed out. The expenditures should be documented and reported in the next quarterly report update, after which the category will be removed from future reporting.

Parks and Recreation Facilities

A.R.S. §9-463.05)(T)(5), as amended, defines eligible parks facilities as "**neighborhood** parks and recreational facilities on **real property up to thirty acres in area**, or parks and recreational facilities **larger than thirty acres if the facilities provide a direct benefit** to the development." We note that this language related to park size is merely a recitation of the nexus requirement because development fees can only be collected for any purpose if a direct benefit is established.

For the purposes of City Code Chapter 23A-128, a regional park is defined as a park that has at least fifteen (15) acres. The Parks and Recreation Ten-Year Strategic Service Plan utilizes five park types based on park size and service area radius and are based on national park standards and standards of comparable cities across the nation.² A regional park as defined in the Ten-Year Strategic Service Plan as a park greater than 200 acres with a service area radius of 7 miles. The Parks Department has not and does not intend to limit development fees only to parks that meet these size criteria.

CLA conducted a geospatial analysis to help determine if the parks expenditures, including parks larger than 30 acres, have a direct benefit to developable land in the City. This was conducted by creating a base layer showing all developable parcels of private land and Arizona State Land Department (ASLD) planned urban lands in the City. Using the Ten-Year Strategic Plan, layers were also created for three park categories- community parks 15 to 40 acres having a one-mile service radius, metropolitan parks 40 to 200 acres with a 2.5 mile service area, and regional parks greater than 200 acres with a seven mile service area. These layers utilize the respective service areas defined in the plan. When the base layer is overlaid by the parks layers, it becomes apparent that the vast majority of developable land is within the service area of one or more new and expanded parks. Accordingly, we conclude that the parks fee program, including those parks greater than 30 acres, provides direct benefit to future development. The maps are provided in the appendix as supporting material.

SB 1525 precludes expenditure of parks development fees on the following items: vehicles, equipment or that portion of any facility that is used for amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, zoo facilities or similar recreational facilities, but may include swimming pools.³

We reviewed the costs used to calculate the parks fee to determine if any of the disallowed facilities were included. We did not find any elements in the parks fee that would be excluded under SB 1525. Therefore, CLA recommends no change in the parks fee at this time. Instead, the City should commit to spending funds collected after January 1, 2012, only on facilities clearly allowed by law. The nuances of the fee and the addition of a non-residential fee category must be appropriately deferred to the required Infrastructure Improvement Plan.

Roadway Facilities

SB 1525 made no changes to the definition of eligible road projects that would affect how the City continues this fee category. CLA recommends that no changes to the City's current development fee program for roads are necessary before January 1, 2012.

Fire and Police Facilities

ARS §9-463.05(T)(5)(f) defines as eligible "fire and police facilities, including all appurtenances, equipment and vehicles. Fire and police facilities do not include a facility or portion of a facility that is

² <http://cms3.tucsonaz.gov/sites/default/files/parks/stratplan.pdf>

³ We note that SB 1525 merely lists but does not define any of the disallowed facilities.

used to replace services that were once provided elsewhere in the municipality, vehicles and equipment used to provide administrative services, helicopters or airplanes or a facility that is used for training firefighters or officers from more than one station or substation.”

On August 6, 2007, Mayor and Council approved Ordinance No. 10442, which established development fees, both residential and non-residential, for fire and police facilities. When developing the development fee study for police and fire, the City included the costs of a new training facility in its fee calculation. CLA reviewed the original calculations that are the basis for the current fire and police development fee and replicated the calculation, deleting those portions of the fee related to these disallowed training facilities.⁴ Based on this amended calculation, we recommend that the development fee for fire and police facilities be reduced from the current amount to the adjusted amounts as shown in Exhibit 2, and as further documented in the appendix. If approved as shown, the police fee will decrease by 19% and the fire fee will decrease by 27%.

Exhibit 2 Recommended Interim Fees Effective January 1, 2012

<u>Police Fee</u>	<u>Equivalent Demand Unit (EDU)</u>	<u>Unit</u>	<u>Current Fee/Unit</u>	<u>Proposed Fee/Unit</u>	<u>Change from Current Fee</u>
Residential	Single-Family (incl. Mobile Homes)	Dwelling Unit	\$674	\$543	-19%
	Multi-Family	Dwelling Unit	\$499	\$402	-19%
	Mobile Home Park	Dwelling Unit	\$579	\$466	-19%
Non-Residential Development		1,000 Sq. Ft.	\$699	\$563	-19%

<u>Fire Fee</u>	<u>Equivalent Demand Unit (EDU)</u>	<u>Fee/Unit</u>	<u>Current Fee/Unit</u>	<u>Proposed Fee/Unit</u>	<u>Change from Current Fee</u>
Residential	Single-Family (incl. Mobile Homes)	Dwelling Unit	\$488	\$357	-27%
	Multi-Family	Dwelling Unit	\$360	\$263	-27%
	Mobile Home Park	Dwelling Unit	\$418	\$306	-27%
Non-Residential Development		1,000 Sq. Ft.	\$269	\$196	-27%

Automatic Annual Adjustment in Development Fees

In February of 2006, Mayor and Council approved Ordinance No. 10053, which provided for an annual, automatic adjustment of development fees, beginning on July 15, 2008. On August 6, 2007, Mayor and Council approved Ordinance No. 10442, which rescheduled the automatic annual fee adjustment for roads and parks to March 2008. §9-463.05, as amended, does not permit automatic annual adjustments of development fees. CLA recommends that the City amended Chapter 23A, Article III, to delete the automatic annual adjustments.

⁴ In the recalculation, we held the population constant and chose not to utilize the more recent and lower population defined by the Census. Using the lower population would have resulted in a slightly higher fee.

Appendix A Peer Agency Survey



MEMORANDUM

To: Nicole Ewing-Gavin, AICP
Assistant to the City Manager

From: Curtis C. Lueck, Ph.D., P.E., AICP
Principal

Cc: James T Barry, Ph.D.
Senior Policy Analyst

Date: December 10, 2011

RE: **SB 1525 Survey Summary**

We conducted a brief survey of several peer jurisdictions known to be taking similar actions. All of the people I contacted were involved with the Arizona League of Cities and Towns model ordinance working group.

The purpose of the inquiry was simply to verify that we are consistent with the other jurisdictions, and that all are generally complying with the new mandates of SB 1525. Several representatives responded to our survey.

The survey was conducted via email and included the following basic questions:

- 1. What ordinance changes, if any, are you making by the end of the year?*
- 2. What fee structure changes, if any, are you making by the end of the year?*
- 3. What formal processes are you using (i.e., public hearing; purely administrative; ordinance re-adoption, etc.)*
- 4. What informal process are you using (i.e., communication with developers and trade associations, press releases, etc.)*
- 5. Finally, is the 1/1/2012 deadline going to be problematic for you to achieve?*

The following jurisdictions provided responses:

- Glendale
- Mesa
- Marana
- Gilbert
- Casa Grande
- Chandler
- Phoenix
- Queen Creek
- Douglas

Their responses are summarized in the following table. All respondents indicated that the cities were adjusting their fee structures and making minor ordinance revisions administratively. A couple jurisdictions were backing up their administrative changes through Council adoption of a parallel resolution. Only the City of Phoenix, which has a complicated impact fee program, is using a more formal public hearing and ordinance revision process. Note that the interpretation of the responses is ours and that any misinterpretation is our responsibility.

More locally, the Town of Marana is taking no immediate action and, instead will be adopting the Arizona League of Cities and Towns' "Model Ordinance" early next year. Based on the survey results and conversations, my recent involvement with the League and attendance at workshops on SB 1525, I believe the course of action we are recommending to you is consistent with peer communities and the intent of SB 1525.

Jurisdiction	What Ordinance Changes are you making by the end of the year?	What fee structure changes are you making by the end of the year?	What formal processes are you using (i.e. public hearing; purely administrative; ordinance re-adoption, etc.)?	What informal process are you using (i.e., communication with developers and trade associations, press releases, etc.)?	Is the 1/1/2012 deadline going to be problematic to achieve?
Glendale	Glendale is replacing the existing DIF schedule in our city code with a revised DIF schedule.	Glendale will only collect fees permitted under SB 1525.	No public hearing. We must seek council approval because the existing DIF schedule is in our city code.	City staff extended invitations to meet with representatives from the housing, multifamily and office/industrial stakeholders and met with them on November 9, 2011. City staff presented the proposed fee schedule along with a comparison to the current fee schedule. City staff addressed several questions related to the method for calculating the proposed fees and the intended process going forward such as the adoption of the model city ordinance and the plan to hire a consultant to develop an Infrastructure Improvement Plan by 2014.	We certainly hope not. Our new DIF is tentative scheduled for council approval on 11/22 or 12/13.
Mesa	We are eliminating the Cultural and General Gov't impact fees effective 1/1/12.	We are eliminating the Cultural and Gen'l Gov't impact fees effective 1/1/12.	We are using the normal Council process for ordinance adoption. Intro. in Nov. and consideration on Dec. 5 to change the IF Fee Schedule - which was adopted by ordinance. Council will be considering a separate resolution clarifying that impact fees have historically been used to pay debt service (i.e. we have pledged debt for the other categories that we will continue to collect at the current rate).	We had a quarterly Developer's Advisory Forum in Oct. at which time we shared our plans for the short term elimination of the two fee categories, and our long-term project to update the IIPs, Land Use Assumptions and Fee Study by 2014.	Assuming Council adopts both the fee schedule ordinance change and the pledged debt resolution we do not anticipate a problem meeting the Jan. 1 deadline for elimination of cultural and gen'l gov't.
Marana	At this point we plan to adopt the model ordinance (or something closely resembling it) within the next couple months. We don't believe we have any illegal DIFs, so we're not rushing to do anything by the end of the year. Update - Marana is making minor ordinance changes to conform, and also establishing separate fee categories for newly collected funds.				
Gilbert	None. We will adopt the model ordinance after the first of the year.	Eliminating the development fees for the prohibited purposes under SB1525	No public hearing. I want to keep this as "administrative" as possible. We are recommending adoption of a resolution that recites that the adoption of the resolution is an administrative act. All the resolution will do is delete the prohibited fees.	Not known at this time.	No. We are working with TischlerBise and expect to have the resolution adopted and for it to be effective 1/1/12.
Casa Grande	Ordinance changes reflect new fee levels only.	Just deleting items no longer legal.	Ordinance changes only.	Posting of new fee schedule on City website; process has been reported in the local newspaper.	No.
Chandler	We will adopt the model ordinance after working through the necessary options (this will most likely not take place by 1/1/12).		We used an administrative procedure - adopted Resolution No. 4544 as agenda item 8 at the 10/27/11 Council Meeting.	We had a meeting on 10/21/11 with about 20 members from the development community to share the memorandum and our steps to fully comply with SB1525. Met with the Development Community Representative (we have a group that includes active developer, HBAC, industrial, multi-family etc)	No - we believe we have done everything necessary to comply with the 1/1/12 deadline.
Phoenix	Major Changes - Current Ordinance is based on Specific Plans	Only fee structure in state based on specific plans (anomaly). re-doing several ordinance provisions under the current statuses (not SB 1525), and also striking the dis-allowed categories (per SB 1525)	Adding non-residential fees at the direction of Council even though that can happen after 1/1/2012. He will have this done by the end of the month including M/C hearings etc. Fees are going down due to the inclusion of non-residential which spreads the burden. No one is complaining about the reduction, and Council is buffering themselves about the added non-residential fee by citing the SB 1525 mandate.		
Queen Creek	Reviewing draft impact fee resolutions for Avondale and Fountain Hills as templates for Queen Creek.	I've worked with TischlerBise to develop a revised fee schedule to be compliance with the provisions that take effect. Our fees will be going down.	Draft resolution goes to Council for action in December.	Had inquiries from Maracay and Lennar about the new fee schedule. I've told both of them that it's in draft form and will not be available until it goes to Council for action in December.	
Douglas	None, just adopting model ordinance by way of resolution; we are lucky as our current impact fees are permitted and primarily used for debt service for pre 6/1/11 financing. Did a Res. Memorializing Dev. Fee pledges back in August 2011.	No changes, but may need to revise current fees by 8/1/2014 after fee study.	No public hearing with process outlined above	None, no major changes, very little development here; as opposed to other places in Cochise County like Sierra Vista, where there is no sign of a recession.	Do not anticipate any problems.

Appendix B Arizona League of Cities and Towns Memorandum

League of Arizona Cities and Towns

Memorandum

November 29, 2011

Re: Development Impact Fees and January 1 Deadline Under SB 1525

Recent communications amongst various members of the League suggest that there continues to be confusion regarding the proper approach to implementing SB 1525, in particular with regard to how to comply with the statute's January 1, 2012 deadline. While we recognize that the language of the statute is somewhat vague and therefore subject to some degree of interpretation, this memo describes what we believe to be the actual intent of the statute and the most defensible interpretation, and the one that has been adopted by the League and a number of other Arizona cities. This interpretation is also reflected in the Model Development Impact Fee Ordinance circulated by the League in late October.

SB 1525 made extensive amendments to A.R.S. §9-463.05, Arizona's municipal development fee enabling statute. Among other provisions, in subsection K, the amended statute provides in part:

A development fee that was adopted before January 1, 2012 may continue to be assessed only to the extent that it will be used to provide a necessary public service for which development fees can be assessed pursuant to this section and shall be replaced by a development fee imposed under this section on or before August 1, 2014. Any municipality having a development fee that has not been replaced under this section on or before August 1, 2014 shall not collect development fees until the development fee has been replaced with a fee that complies with this section. (Emphasis added.)

The proper interpretation of the italicized language in the paragraph above has given rise to some debate – i.e., what must a city or town do by January 1, 2012 to comply with the statute?

Based on the discussions surrounding the negotiation of SB 1525, the actual intent of this language was to require municipalities that currently assess impact fees to amend their fee schedules to *eliminate development fees related to public services for which development fees can no longer be assessed* under the amended statute. In A.R.S. §9-463.05, subsection T(5), the amended statute now provides an express list of “necessary public services” for which a development fee may legally be assessed. Items falling outside of these definitions may no longer be the subject of a development fee, and existing development fee schedules should be conformed to reflect the deletion of particular items or categories of necessary public services that are no longer permitted.

To ensure compliance with SB 1525 as it becomes effective, these changes to the fee schedule should be made no later than December 31, 2011. If it is not possible to comply with this deadline, the municipality's current development fee schedule should not be imposed against developments until changes to the current schedule can be made.

Continuation of Existing Impact Fees

To be clear, the position of the League is that this does not require that a municipality adopt a new development fee study by January 1, 2012, nor does it require that that a

municipality stop assessing development fees for approved purposes under the new statutes until a new fee study can be put in place. This is fully consistent with the plain language of the statute, and is further supported by the fact that the development fee moratorium that was adopted by the Arizona legislature in 2009, extended in 2010, and carried forward through December 31, 2011 in SB 1525 does not even expire until January 1, 2012. Regardless, SB 1525 clearly identifies August 1, 2014 as the deadline by which development fees must be replaced by fees adopted pursuant to a new fee study that complies with the amended statute.

Because new fee studies must be adopted by all municipalities (or at least those who intend to continue to assess development fees) no later than August 1, 2014, for practical reasons, the League recommends that municipalities work expeditiously to adopt new ordinances along the lines of the League's Model Development Impact Fee Ordinance by that deadline. However, the statute also does not require that municipalities adopt new municipal code provisions (along the lines of the Model Development Fee Ordinance) by January 1, 2012 in order to implement the requirements of the amended statute.

Background and Examples

SB 1525 changes Arizona's enabling statute – the statute that extends authority to municipalities to impose development fees – and narrows the categories of infrastructure and services that qualify as “necessary public services” for which development fees can be assessed. *The statute therefore renders void* any fees or fee components that are assessed for infrastructure and services that do not fall within the limits of the new definition, since starting on January 1, 2012, municipalities no longer have the authority to assess those fees. The amendments to the statute thus do not require municipalities to assess certain types of fees; rather, as of January 1, municipalities must *refrain from assessing* fees that are beyond their authority.

As such, it is not necessary to adopt new development fees to comply with the law. However, it is necessary for municipalities to conform their currently effective fee schedules to reflect their reduced scope of authority by deleting those fees or fee components that are no longer authorized. Since the currently effective fee schedule will normally be based on the municipality's last adopted fee study, *these revisions should be based on the assumptions, costs, and calculations contained in the most recent fee study* upon which the currently effective fees are based.

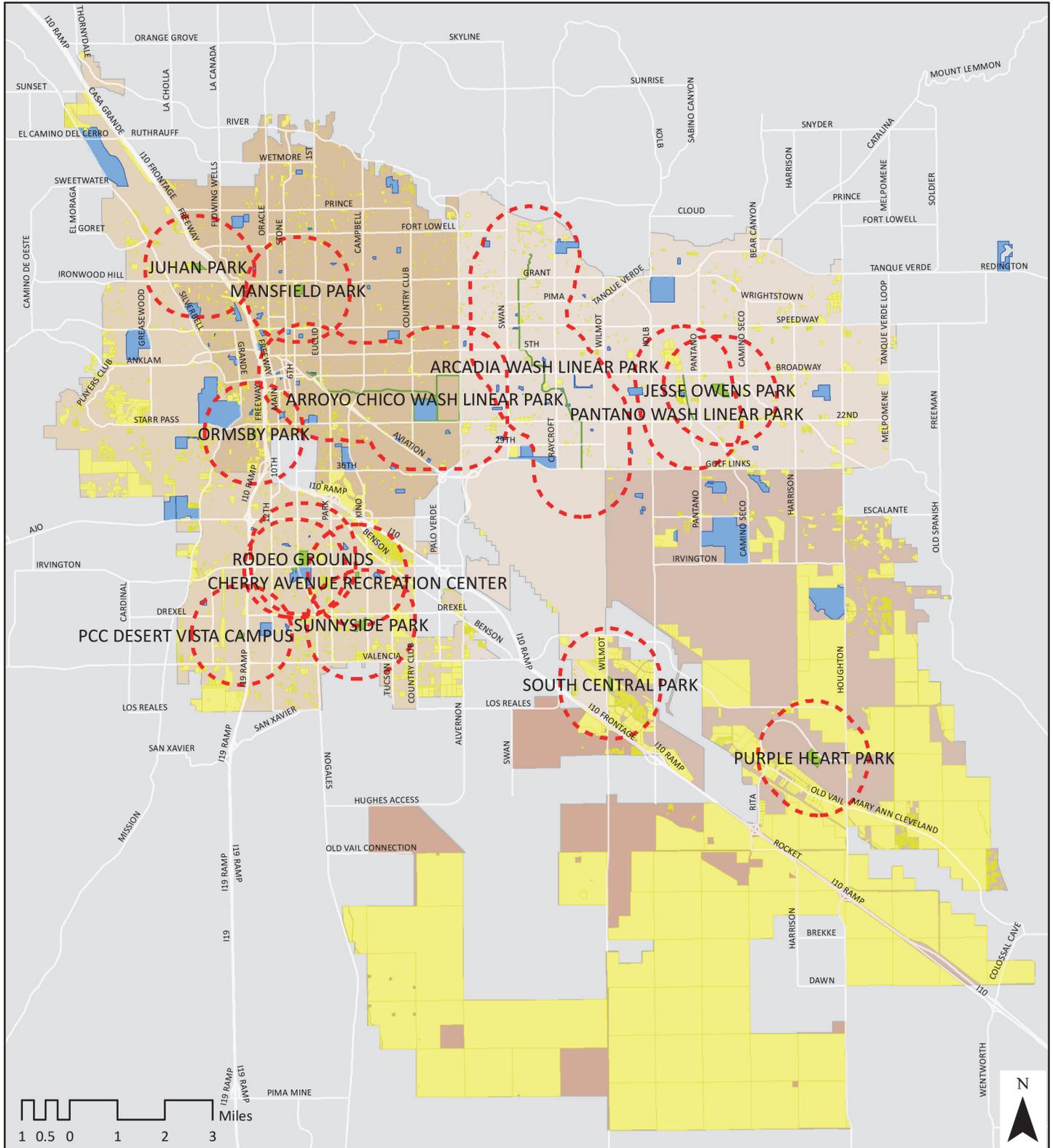
Where development fees are being charged for categories of necessary public services that are no longer permitted – such as solid waste – those fees should simply be dropped from the existing fee schedule. By contrast, where only a portion of an existing fee is disallowed, the fee can be reduced by reference to the costs in the fee study. For example, assume a municipality currently assesses a Police fee that, pursuant to its most recent fee study, included projected costs for police stations, police vehicles, and a \$2 million regional training facility that will serve police officers throughout the municipality. Based on the assumptions and calculations used in the fee study, the allowable development fee with the training facility included was \$100; if the facility had been excluded from those calculations, the fee would have been only \$80. The police stations and vehicles would continue to be allowed under the narrowed definition of “necessary public services” in SB 1525. However, since the regional training facility is now disallowed by SB 1525, the existing fee should be reduced to \$80.

The League will be circulating examples of ordinances adopted by various municipalities to conform their existing fee schedules in order to meet the January 1 deadline. We hope that this helps to clarify the actions that should be taken by cities and towns on or before that date.

Appendix C Parks Service Area Analysis

CITY OF TUCSON DEVELOPMENT IMPACT FEE AREAS - COMMUNITY PARKS

December 2, 2011
Parks 15-40 Acres



LEGEND

- Parks Used as Basis for Impact Fee
- Parks in Existing Impact Fee Projects Plan
- 1 Mile Service Radius
- Undeveloped Land

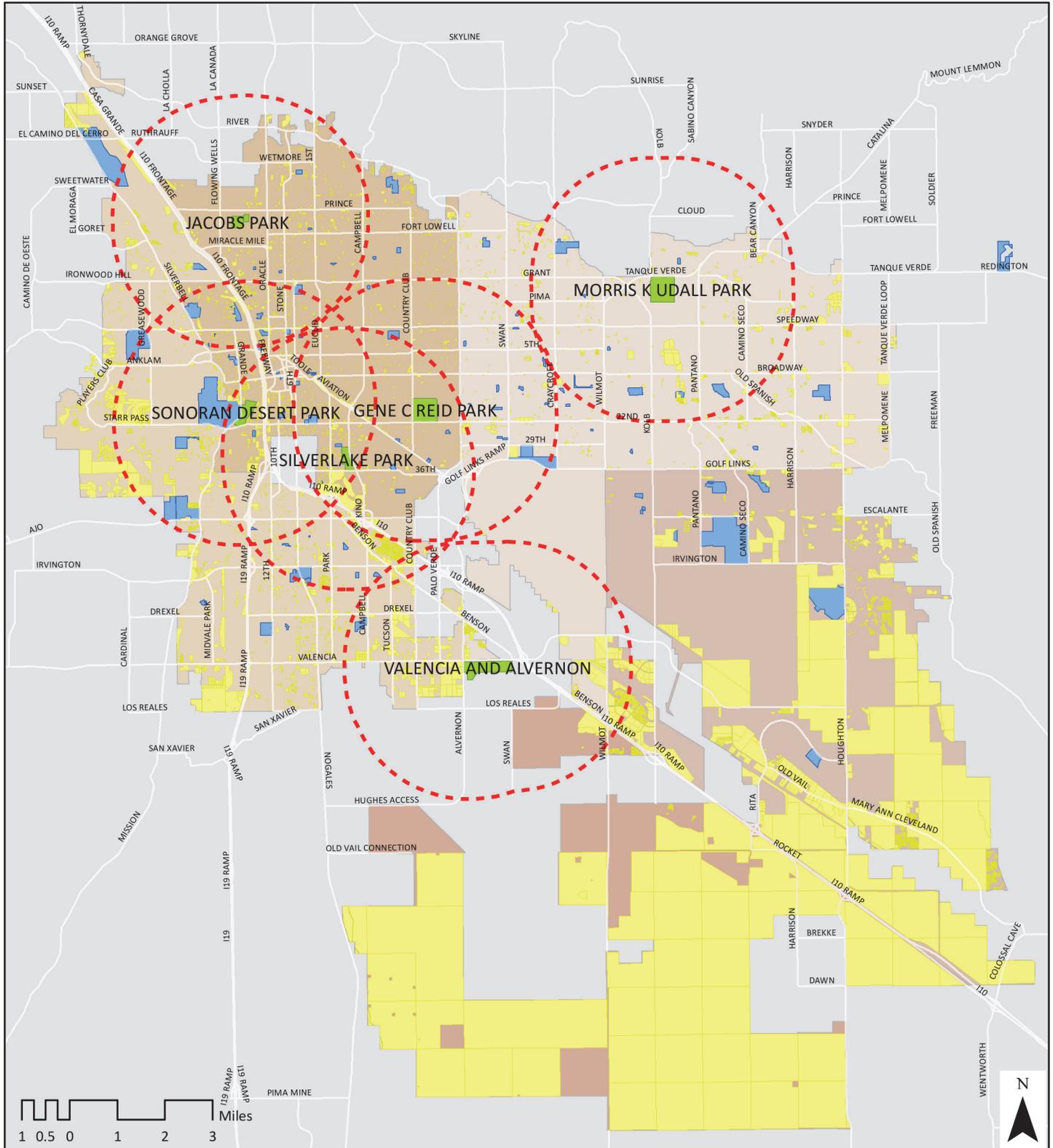
City of Tucson Impact Fee Areas

- Central
- East
- Southeast
- Southland
- West

CITY OF TUCSON DEVELOPMENT IMPACT FEE AREAS - METRO PARKS

December 2, 2011

Parks 40-200 Acres



LEGEND

- Parks Used as Basis for Impact Fee
- Parks in Existing Impact Fee Projects Plan
- 2.5 Mile Service Radius
- Undeveloped Land

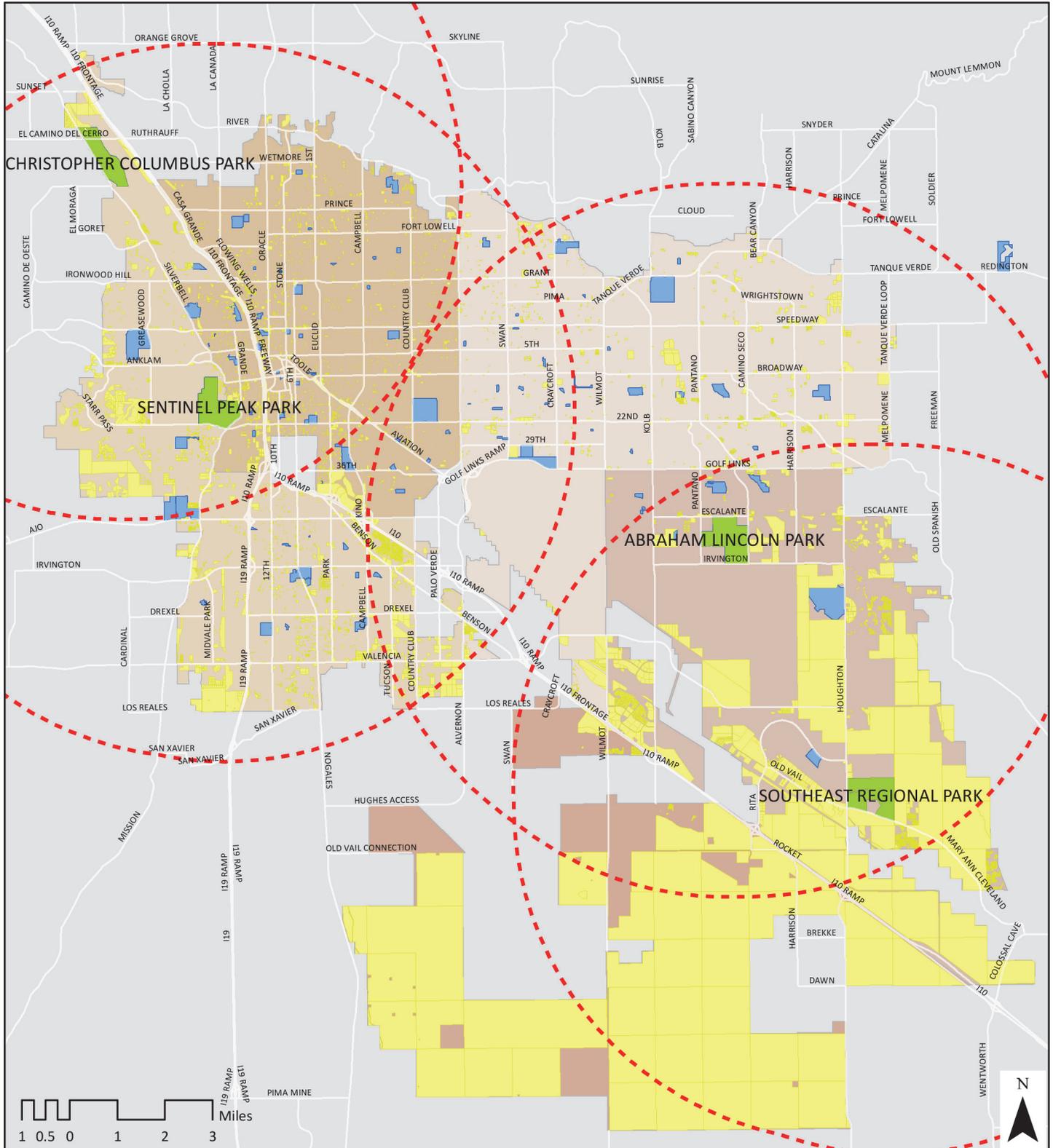
City of Tucson Impact Fee Areas

- Central
- East
- Southeast
- Southland
- West

CITY OF TUCSON DEVELOPMENT IMPACT FEE AREAS - REGIONAL PARKS

December 2, 2011

Parks > 200 Acres



LEGEND

- Parks Used as Basis for Impact Fee
- Parks in Existing Impact Fee Projects Plan
- 7 Mile Service Radius
- Undeveloped Land

City of Tucson Impact Fee Areas

- Central
- East
- Southeast
- Southland
- West

Appendix D Fee Recalculations

**CITY OF TUCSON, ARIZONA
OFFICE OF THE CITY MANAGER**

**RECOMMENDED POLICE AND FIRE
DEVELOPMENT FEES**

PREPARED BY

CURTIS LUECK & ASSOCIATES

5460 WEST FOUR BARREL COURT

TUCSON, ARIZONA 85743

(520) 743-8748

CLA PROJECT No. 2010.13

December 10, 2011

TABLE OF CONTENTS

Introduction 1
Current Police and Fire Impact Fees 1
Fire and Police Facilities – Amendments to Impact Fees 4
Recommendations 7

EXHIBITS

Exhibit 1 Police Impact Fees (Current)..... 1
Exhibit 2 Fire Impact Fees (Current) 1
Exhibit 3 Police Impact Fees Derived 2
Exhibit 4 Fire Impact Fees Derived..... 3
Exhibit 6 Police -- Derivation of Recommended Impact Fees..... 5
Exhibit 7 Fire -- Derivation of Recommended Impact Fees 6

Introduction

This technical memorandum is a companion document to the Compliance with SB 1525 Recommended Action Plan, Prior to January 1, 2012 Effective Date prepared by CLA. This document summarizes the recommended police and fire development fee changes including what was eliminated from the fee base and why.

Current Police and Fire Impact Fees

On August 6, 2007, Mayor and Council approved Ordinance No. 10442, which established development fees, both residential and non-residential, for fire and police facilities.

These development fees were based on recommendations from the 2007 City of Tucson Impact Fee Study, Police, Fire, Public Facilities.¹ The fees were calculated in part by estimating the replacement costs of buildings, land, vehicles and equipment, and removing outstanding debt to get a net facilities replacement value. This amount was then apportioned to residential (single family, multi-family or mobile home park) and nonresidential development based on call for service data.

Although the ordinance includes an annual fee adjustment based on the Engineering New Report, Construction Cost Index (CCI), fees have not increased since 2009. The current fees are as shown:

Exhibit 1 Police Impact Fees (Current)

Police		
	Unit	Fee/Unit
Residential		
Single-Family (incl. Mobile Homes)	Dwelling Unit	\$674
Multi-Family	Dwelling Unit	\$499
Mobile Home Park	Dwelling Unit	\$579
Non-Residential	1,000 Sq. Ft.	\$699

Exhibit 2 Fire Impact Fees (Current)

Fire		
	Unit	Fee/Unit
Residential		
Single-Family (incl. Mobile Homes)	Dwelling Unit	\$488
Multi-Family	Dwelling Unit	\$360
Mobile Home Park	Dwelling Unit	\$418
Non-Residential	1,000 Sq. Ft.	\$269

¹ City of Tucson, Update, May 2007

Spreadsheets showing the derivation of these fees, and the increases to 2009 fees are provided here:

Exhibit 3 Police Impact Fees Derived

From City of Tucson Impact Fee Study - May 2007 Update

Police Cost of Service Calculations (2007)				
Buildings and Land	\$	238,677,132		
Vehicles	\$	26,140,713		
Equipment	\$	14,038,220		
Total Facilities Value	\$	278,856,065		
Deduct Public funding Credit	\$	69,361,781		
Net Facilities Value	\$	209,494,284		
Residential Percentage		0.6		
Residential Share	\$	125,696,570		
Divide by Tucson Pop		539,228		
Residential Cost Per Person	\$	233.10		
Multiply by Average persons per SF unit		2.76		
Equals Cost Per Single Family Unit	\$	643	Current Fee Schedule	Increase from 2007
			\$ 674	4.76%
Multiply by Average persons per MF unit		2.04		
Equals Cost per Multi Family Unit	\$	476	\$ 499	4.93%
Multiply by Average persons per Mobile Home		2.37		
Equals Cost Per Mobile Home Unit	\$	552	\$ 579	4.80%
Non-Residential Percentage		0.4		
Non-Residential Share	\$	83,797,714		
Divide by total existing nonresidential square ft		119,828,000		
Equals non-residential fee per square ft		0.699316634		
Multiply by 1000		1000		
Equals Cost Per 1,000 Sq. Ft. Non-Residential	\$	699	\$ 699	0.00%



Exhibit 4 Fire Impact Fees Derived

From City of Tucson Impact Fee Study - May 2007 Update

Fire Cost of Service Calculations (2007)			
Buildings and Land	\$	104,599,855	
Vehicles	\$	46,705,863	
Equipment	\$	2,158,632	
Total Facilities Value	\$	153,464,350	
Deduct Public funding Credit	\$	29,715,976	
Net Facilities Value	\$	123,748,374	
Residential Percentage		0.74	
Residential Share	\$	91,573,797	
Divide by Tucson Pop		539,228	
Residential Cost Per Person	\$	170	
Multiply by Average persons per SF unit		2.76	
Equals Cost Per Single Family Unit	\$	469	\$ 488 4.11%
Multiple by Average persons per MF unit		2.04	
Equals Cost per Multi Family Unit	\$	346	\$ 360 3.91%
Multiply by Average persons per Mobile Home		2.37	
Equals Cost Per Mobile Home Unit	\$	402	\$ 418 3.86%
Non-Residential Percentage		0.26	
Non-Residential Share	\$	32,174,577	
Divide by total existing nonresidential square ft		119,828,000	
Equals non-residential fee per square ft		0.268506336	
Multiply by 1000		1000	
Equals Cost Per 1,000 Sq. Ft. Non-Residential	\$	269	\$ 269 0.00%

Fire and Police Facilities – Amendments to Impact Fees

Fire and police facilities are eligible “necessary public services” pursuant to ARS §9-463.05, as amended.

The revised statute does not allow training facilities, or equipment applied to training facilities to be included in the derivation of development fees. The fees based on the 2007 City of Tucson Impact Fee Study, Police, Fire, Public Facilities report included the Public Safety Training Academy (PSTA) training facility at 10251 South Wilmot, which is shared by the City of Tucson Police and Fire Departments.

The City of Tucson Impact Fee Study, Police, Fire, Public Facilities lists the buildings and land that were applied to the valuation of the replacement costs for Police facilities. The PSTA is shared with the Fire Department – the replacement building cost and land value of the Police portion is \$40,768,146. The estimated cost of the Fire portion of the PSTA is \$33,291,503. There is an additional \$100,000 in PSTA equipment included in the cost of service calculation for the Police portion.

The PSTA costs were subtracted from the original estimates for “Buildings and Land” and “Equipment” since they are now unallowable under SB 1525. Also, because the calculation was originally based on year 2007 values, we increased the fees by the same percentages that were applied to the 2009 (and still current) fees to estimate the amended Police and Fire impact fees.

Exhibit 6 Police -- Derivation of Recommended Impact Fees

Recommended Amended Police Impact Fees

Subtractions of PTSA Elements	Police Cost of Service Calculations (Revised w/no PTSA)	
\$ (40,768,146)	Buildings and Land	\$ 197,908,986
	Vehicles	\$ 26,140,713
\$ (100,000)	Equipment	\$ 13,938,220
	Total Facilities Value	\$ 237,987,919
	Deduct Public funding Credit	\$ 69,361,781
	Net Facilities Value	\$ 168,626,138
	Residential Percentage	0.6
	Residential Share	\$ 101,175,683
	Divide by Tucson Pop	539,228
	Residential Cost Per Person	\$ 187.63
	Multiply by Average persons per SF unit	2.76
	Equals Cost Per Single Family Unit	\$ 518
		\$ 543
	Multiply by Average persons per MF unit	2.04
	Equals Cost per Multi Family Unit	\$ 383
		\$ 402
	Multiply by Average persons per Mobile Home	2.37
	Equals Cost Per Mobile Home Unit	\$ 445
		\$ 466
	Non-Residential Percentage	0.4
	Non-Residential Share	\$ 67,450,455
	Divide by total existing nonresidential square ft	119,828,000
	Equals non-residential fee per square ft	0.562893941
	Multiply by 1000	1000
	Equals Cost Per 1,000 Sq. Ft. Non-Residential	\$ 563
		\$ 563

Note: From Page 8 of COT IFS, Portion of Public Safety Academy, Structure = \$33,064,560; Land = \$7,703,586. This equals \$40,768,146, and was deducted from the buildings and land portion. \$100,000 was in the equipment section for the Police Training Academy and was deducted.

Exhibit 7 Fire -- Derivation of Recommended Impact Fees

Recommended Amended Fire Impact Fees

Subtractions of PTSA Elements	Fire Cost of Service Calculations (Revised w/no PTSA)		
\$ (33,291,503)	Buildings and Land	\$ 71,308,352	
	Vehicles	\$ 46,705,863	
	Equipment	\$ 2,158,632	
	Total Facilities Value	\$ 120,172,847	
	Deduct Public funding Credit	\$ 29,715,976	
	Net Facilities Value	\$ 90,456,871	
	Residential Percentage	0.74	
	Residential Share	\$ 66,938,084	
	Divide by Tucson Pop	539,228	
	Residential Cost Per Person	\$ 124.14	
	Multiply by Average persons per SF unit	2.76	Increase to 2009 (Current)
	Equals Cost Per Single Family Unit	\$ 343	\$ 357
	Multiple by Average persons per MF unit	2.04	
	Equals Cost per Multi Family Unit	\$ 253	\$ 263
	Multiply by Average persons per Mobile Home	2.37	
	Equals Cost Per Mobile Home Unit	\$ 294	\$ 306
	Non-Residential Percentage	0.26	
	Non-Residential Share	\$ 23,518,786	
	Divide by total existing nonresidential square ft	119,828,000	
	Equals non-residential fee per square ft	0.196271208	
	Multiply by 1000	1000	
	Equals Cost Per 1,000 Sq. Ft. Non-Residential	\$ 196	\$ 196

Note: From Page 13 of COT IFS, Station 6 and assumed Fire portion of Public Safety Academy are grouped (98,719 SF Total). Assumed Station 6 is 6,000 SF (close to avg of other Stations in IFS report spreadsheet) and the Fire Portion is 92,719, or 93.5% of the total. Multiplied \$27,740,039 (Total Grouped Structure Value) + \$7,865,847 (Total Grouped Land Value times 0.935 = \$33,291,503 and was deducted from the buildings and land portion.

Recommendations

Based on the requirements of SB 1525 and the proposed modifications, the amended fees would be:

Police

	Unit	Fee/Unit
Residential		
Single-Family (incl. Mobile Homes)	Dwelling Unit	\$543
Multi-Family	Dwelling Unit	\$402
Mobile Home Park	Dwelling Unit	\$466
Non-Residential	1,000 Sq. Ft.	\$563

Fire

	Unit	Fee/Unit
Residential		
Single-Family (incl. Mobile Homes)	Dwelling Unit	\$357
Multi-Family	Dwelling Unit	\$263
Mobile Home Park	Dwelling Unit	\$306
Non-Residential	1,000 Sq. Ft.	\$196