



MAYOR & COUNCIL MEMORANDUM

December 20, 2011

Subject: Development Impact Fee Changes Effective January 1, 2012 Page 1 of 3
to Comply with New State Law (City Wide)

Issue – This item is scheduled to inform the Mayor and Council of the changes that will be required in order to bring the City’s impact fee program into compliance with recent changes to State law effective January 1, 2012.

City Manager’s Office Recommendation – This item is for informational purposes.

Background - Development impact fees (“impact fees”) are a financing mechanism used by local governments to help cover the cost of facilities and infrastructure needed to serve new development. Impact fees are considered a development regulation rather than a tax. The City’s authority to impose, collect and expend impact fees is derived from state law, A.R.S. Sec. 9-463.05, which authorizes cities to “assess development fees to offset costs to the municipality associated with providing necessary public services to a development.”

Tucson’s voter-approved *General Plan* states that the City will recover “growth-related capital costs in the areas of transportation, parks and recreation, water resources and distribution, drainage, operations, police, fire, solid waste, and libraries.” Impact fees are a common infrastructure financing tool used by cities and towns throughout Arizona. Impact fees are one-time, up-front charges collected at the issuance of a building permit, usually collected from both residential and commercial development. They are assessed based on the estimated impact that the development will have over its lifetime on the infrastructure needs in the community. Impact fees cannot be set arbitrarily, but must be based on the actual cost to serve new development with necessary public services. The essential purpose of impact fees is to ensure that new development pays a proportionate share of capital improvements associated with necessary public services.

The City of Tucson currently has impact fees in place for roads, parks, police, fire, and public facilities. The current impact fee rate schedule is attached for your review and information. All of the City’s impact fees are assessed on both residential and non-residential development except the park fee, which is assessed only on residential development. Impact fees for roads and parks were enacted in 2005 following a cost of service study conducted by Duncan and Associates. Road and parks fees are assessed within five (5) benefit districts, which define the sub-areas in which impact fees are collected and may be spent. Road fees in the central benefit district are discounted based on the cost of service study which showed less transportation impact in this area. Impact fees for police, fire, and public facilities were enacted in August 2007 following a cost of service study conducted by City staff with outside verification by Curtis Lueck and Associates (CLA), and are collected and spent within a city-wide benefit district. The cost of service studies that form the

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basis for the fees are posted to the City's impact fee website at tucsonaz.gov/planning/prog_proj/projects/cost/. The most recent quarterly report showing impact fee revenues collected and expended, inception to date is attached for your reference. Also attached is the Impact Fee Projects Plan (IFPP) which is included in the City's Capital Improvement Program and details the projects eligible for use of impact fees. The IFPP is required by State law and the City's impact fee ordinance and can be updated at any time following a public hearing.

SB 1525 - On April 26, 2011 Governor Brewer signed into law Senate Bill (SB) 1525. SB 1525 fundamentally rewrites ARS Sec. 9-463.05, which as noted above is the statute that governs how municipalities in Arizona may calculate, assess and expend development impact fees. Beginning January 1, 2012, the City cannot collect any of its existing fees, or portions of those fees, which are collected for purposes/categories of expenditures that are not authorized under the new statute and its definition of "necessary public services." By August 1, 2014 the City will need to completely re-work its impact fee program, including conducting new planning and cost of service studies to establish fees and putting new impact fee management and reporting systems in place.

Changes Needed to Bring the City's Fees into Compliance – As described above, there are two deadlines for compliance with SB 1525: January 1, 2012 and August 1, 2014. City staff have been focused over the past several months on compliance with the January 1, 2012 deadline for modifying the existing impact fee program. The City hired Curt Lueck and Associates (CLA), a local firm that has assisted the City with impact fees in the past, on contract to determine what changes would be needed to comply with SB 1525. CLA worked with staff to re-calculate those fees which need to be adjusted. The CLA report

The City will need to make the following changes to its development impact fee structure for implementation January 1, 2012:

- Eliminate the Public Facilities (general government) fee
- Reduce the Police fee for both residential and commercial development
- Reduce the Fire fee for both residential and commercial development
- No changes to the roads or parks fee are needed at this time

These changes will mean an overall reduction in impact fees of approximately 12 percent for a typical single family home of 1,600 sf as depicted in the following table:

	<u>Current Fee</u>	<u>Fee as of January 1, 2012</u>
Roads	\$3,440	\$3,440
Parks	\$1,376	\$1,376
Police	\$ 674	\$ 543
Fire	\$ 488	\$ 357
Public Facilities	<u>\$ 501</u>	<u>\$ 0</u>
	\$6,479	\$5,716

These changes to the fees will be processed administratively to coincide with the January 1, 2012 deadline. A revised impact fee ordinance that updates the ordinance language to comply with all aspects of the new state law will be brought forward to the Mayor and Council in early 2012.

Model Impact Fee Ordinance – The August 1, 2014 requirements in the law will require wholesale changes to the City's impact fee program. The League of Arizona Cities and Towns, working with a statewide group of attorneys and planners has recently completed a model impact fee ordinance consistent with the new state law. This document, which staff is currently reviewing, will provide guidance to the City in re-working our impact fee program. The model ordinance is an attempt to reflect the broadest consensus on the provisions of SB1525 and is aimed at facilitating consistency across cities and towns in our interpretation and implementation of impact fee programs to stave off future legislative changes.

Legal Considerations – The described modifications to the City's impact fees are necessary to be in compliance with the provisions of the new state laws. Beginning January 1, 2012, the City will assess and collect the fees as described in this memorandum. The City Attorney will draft an ordinance to modify the impact fee codes to incorporate the described changes for future Mayor and Council approval.

Budget Considerations – Compliance with the January 1, 2012 changes required by SB 1525 will eliminate City impact fees for public facilities, however the City will be able to spend the public facilities revenue already collected.

Respectfully submitted,



Richard Miranda
City Manager

RM/NEG

Attachment: CLA Report – Compliance with SB 1525