

ORDINANCE NO. 127

AN ORDINANCE OF THE CITY OF SAN LUIS, ARIZONA, ADDING DEVELOPMENT-IMPACT FEES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AS FOLLOWS:

SECTION 1 - DEVELOPMENT-IMPACT FEE ADMINISTRATION-
Management of Function

The Director of Community Development, under the direct supervision of the Manager, shall have the immediate control and management of all things pertaining to the city development-impact fee function and shall cause to be performed all acts that may be necessary for the fair and efficient management of said development-impact fee function. The council shall have the power to prescribe such other and further fees, rules and regulations as it may deem necessary.

SECTION 2 - Definitions

In this chapter unless the context requires otherwise:

- A. "Development-Impact Fee" means a fee to be charged as a condition of approval of a subdivision and/or of a building permit, that is based on the public capital cost of one or more new facilities or items of infrastructure wholly or partly made necessary by a development project, rather than simply on the cost of processing an application. (For purposes of this chapter, such fees are referred to as "application processing fees.")
- B. "Facility" means any building or other physical improvement that makes possible and eases the provision of a public service such as education, health, recreation, cultural activities, fire and police protection, or general governance.
- C. "Infrastructure" means any construction that is necessary to and makes possible the provision of a physical public service such a stormwater control and drainage, water supply, sanitary sewerage, transportation, or communications, which in turn are necessary to and make possible a wide range of economic and social activities.
- D. "Benefit area" means a defined geographic area in which specified public facilities or items of infrastructure are of direct benefit to residents or other users.
- E. "Benefit area plan" means a map identifying the benefit area of a specified facility or infrastructure item, as well as a budget for the facility or infrastructure item's capital cost.

- F. "Council" means the legislative body of the City of San Luis, Arizona.
- G. "Developer" means any person, corporation, organization or other legal entity undertaking a specified development project.
- H. "Development" means any construction or expansion of a building or structure, any change in the use of a building or structure or any land use change that affects the city's need for public facilities and/or infrastructure items.
- I. "Development agreement" means an agreement between the city and either a community facilities district (pursuant to ARS 48-709 C), a landowner, or any other person having an interest in real property that may specify or is otherwise related to any of the following:
 - (1) The duration of the agreement.
 - (2) The permitted uses of property subject to the agreement.
 - (3) The density and intensity of uses and the maximum height and size of proposed building within such property.
 - (4) Provisions for reservation or dedication of land for public purposes and provisions to protect environmentally sensitive lands.
 - (5) Provisions for preservation and restoration of historic structures.
 - (6) The phasing or time of construction or development of property subject to the agreement.
 - (7) Conditions, terms, restrictions and requirements for public infrastructure and the financing of public infrastructure and subsequent reimbursements over time.
 - (8) Conditions, terms, restrictions and requirements relating to the City of San Luis' intent to form a special taxing district pursuant to title 48.

- (9) Conditions on sewer service.
- (10) Any other matter relating to development of the property.
- J. "Development fee" (or development-impact fee) means a fee imposed on a benefit area by the council to pay for a proportionate share of specified public facilities and/or infrastructure items that are required to serve a development project.
- K. "Development fees projects plan" means a public document which identifies all benefit area plans, including all proposed expenditures for projects funded with development fees in the current fiscal year and at least the four fiscal years thereafter.
- L. "Discount rate" means the interest rate which is expressed in terms of a percentage per year and which is used to adjust past or future financial or monetary payments to present value.
- M. "Encumbered" means the award of a contract for a public facility for which a development-impact fee has been imposed.
- N. "Exaction" means a condition or requirement which is attached to a development project approval and which compels the payment, dedication or contribution of goods, services, land, or money to a public or quasi-public entity.
- O. "Present value" means the current value of past, present, or future payments which are adjusted to a base period by a discount rate.
- P. "Proportionate share" means that share or portion of total capital facility or infrastructure item capital cost which is reasonably attributable to or caused by an individual development project.
- Q. "Public facilities & infrastructure" mean capital improvements for roadways, wastewater collection systems and treatment facilities, effluent delivery systems and treatment facilities, flood control, neighborhood parks intended to serve development within a one-half mile radius and potable water distribution systems and treatment facilities that have a useful life expectancy of three or more years.

- R. "Public facilities & infrastructure capital costs" mean those capital costs associated with the project planning, design and construction of new or expanded publicly-owned facilities and equipment that have a life expectancy of three or more years, as well as the related land acquisition, land improvement, design and engineering. These costs do not include routine and periodic maintenance expenditures, personnel training or other operating costs.
- S. "Roadway" means right-of-way acquisition and construction of roads, road shoulders, curbs, gutters and sidewalks, as well as traffic signal installation.

SECTION 3 - Purpose

The City of San Luis assesses development fees to offset costs to the city associated with providing necessary public services to specified development project within its jurisdictional limits.

SECTION 4 - Limitations

- A. Development-impact fees are to be charged only if they result in beneficial use to the development project.
- B. Development-impact fees are to be charged only for one or more specified public facilities that are identified in a benefit area plan.
- C. Monies received from development fees are to be placed in a separate fund and accounted for separately and are to be used only for the purposes authorized. Interest earned on monies in the separate fund shall be credited to the fund.
- D. The amount of any development fees assessed are to bear a reasoned relationship to the burden imposed upon the city to provide additional, necessary public services to the development project. In determining the extent of the burden imposed by the development project, the city is to consider, among other things, the contribution made or to be made in the future in cash or through taxes, fees, or assessments by the property owner(s) towards the capital cost of the necessary public service(s) covered by the development fee.

SECTION 5 - Development-Impact Fees: Intergovernmental Agreements, Purposes

The City will, upon Council action, enter into intergovernmental agreements to accept and disburse development fees for construction of a public facility or infrastructure item pursuant to a benefit area plan, including an agreement with a Municipal Property Corporation, Yuma County, another municipality, or a special taxing district for the joint establishment of a needs assessment, the adoption of benefit area plan and the imposition, collection and disbursement of development fees to implement a joint plan for development.

SECTION 6 - Development Fee Program Management

The City will not require, as a condition of development approval, the construction of any facility or infrastructure item or other exaction for which a development fee ordinance has been adopted, unless the City also credits the reasonable value of facilities advanced, dedicated or improved by the developer against the development fees. No development fee will be charged for that cost of a public facility that is funded by general obligation bond proceeds, highway user fund proceeds, community facilities districts, Municipal Property Corporation or improvement districts.

SECTION 7 - Development Fee Standards: Recoupment & Exemptions

- A. All Development-impact fees are to meet the following standards:
- (1) The cost of public facilities for which any development fee is to be assessed, imposed, levied or collected are to be attributable or related, based on an explicit stated rationale, to the service demands of the benefit area.
 - (2) Development-impact fees assessed, imposed, levied or collected from development are not to exceed a proportionate share of the costs incurred or to be incurred in providing a specified public facility or specified public facilities.

- (3) Development-impact fees are to be used and expended for the benefit of the benefit area that pays the development fee. The following rules are to be observed:
 - (a) On collection, each set of development fees shall be accounted for in a fund that clearly identifies the kind of public facility of which the development fee was established. Development fees are to be invested with all interest accruing to the fund.
 - (b) A benefit area plan is to be established and recorded upon final adoption of the ordinance for each area. Each benefit area is to be appropriate to the nature of the specified public facility and the nature of the service area.
 - (c) Except for recoupment (subsection C, below), development fees are not be collected from a development project until public facilities that bear a reasoned relationship to the needs created by the development project are included in the corresponding benefit area plan.
 - (d) Development fees are to be encumbered for public facilities within five years after the date of collection, except in cases when a development agreement provides for a longer term.
 - (e) If the development fees are not encumbered within five years (or another date specified in a development agreement), the City is to refund the amount of the development fee, along with accrued interest on the amount of the fee at the average annual rate of interest earned by the trust fund during the period, to the owner of the property on which the fee was paid.
- B. For purposes of such refunds, the owner of the property on which a development fee was paid is the owner of record at the time that refund payment is made. Any action to obtain a refund must begin no later than one year after the date that such a refund becomes due.

- C. The City by administrative decision elect to recoup through a development fee the costs of excess capacity in existing public facilities, but only to the extent that a development project is serviced by existing public facilities.
- D. Development fees may be used to repay a developer for public facilities contributed or paid for by that developer pursuant to a development agreement.
- E. The City may, by Council action on specific development projects, waive development fees for any development that constitutes affordable housing to moderate, low, or very low income households, as defined by current federal criteria, provided that such a waiver will not result in an increase of the development fee for other properties in the same benefit area.
- F. The City may, by Council action on specific development projects, waive from development fees particular types and locations of development that are determined to serve an overriding public interest, provided that waiver will not result in an increase in the development fee for other properties in the same benefit area.

**SECTION 8 - Development-Impact Fee Needs
Assessment**

Prior to implementing this Development Fee Ordinance, the City shall first conduct a needs assessment for the types of public facilities for which the development fee is to be assessed and collected. This needs assessment is to carefully distinguish between existing service deficiencies and the needs that will be occasioned by new development. It is to contain components that inventory existing facilities and identify the level of service standards for which the fee is to be assessed and collected, and the projected community needs. The needs assessment is to be a document separate from this Development Fee Ordinance.

- A. The City is to base the needs assessment on supporting data used to develop its development fee projects plan. The San Luis development fee projects plan is to be updated annually by staff and subsequently adopted by the Council.

- B. The data sources and methods on which the assessment of the development fee is based is to be made available to the public on request.
- C. The amount of development fee imposed is to be based on actual public facility capital costs, or reasonable estimates for the expansion of public facilities, that are incurred as a result of specified anticipated new development.
- D. In determining the total amount of monies a specific development fee ordinance is to raise, the City is to reasonably provide for credits that reflect the present value of contributions or exactions that each new development may have made for the same public facility. The determination of credits is to be made at the time that the amount of the development fee is to be reviewed every two years, any revisions to affect future, not retroactive, fees and credits.
- E. In all cases in which a specific development fee ordinance has been adopted to provide for neighborhood parks, credit is to be given for any existing and planned on-site park or recreational facility provided by the developer.
- F. Each specific development fee ordinance is to identify, for the type of facility covered by the fee, any existing deficiencies, based on adopted level-of-service standards and to describe any plans the City may have to remedy any such deficiency. (However, the City does not commit to rectifying all service deficiencies prior to proceeding with the development fee approach.)
- G. The amount of the development fee is not to include the cost of remedying any existing public facilities deficiencies.
- H. The capital improvements of the General Land Use Plan is to list anticipated fee revenues as a projected source of revenue, together with the percentages of development fee dollars to be used for funding public facility capital improvements.

SECTION 9 - Development Fee: Hearing, Notice,
Procedures

- A. The needs assessment and a proposed benefit area plan is to be submitted to the Council at a public hearing. The public hearing is to be duly advertized in a one-eight page notice in a newspaper of general circulation in the jurisdiction.
- B. If the Council decides to proceed with the general development fee ordinance, it will at the end of or after the public hearing, set a time and date for final adoption.
 - (1) Notice of time and place of the adoption meeting, including a general explanation of the matter to be considered and including a general description of the benefit area, is to be provided at least fifteen days before the meeting. All owners of record in the benefit area are to be individually noticed.
 - (2) No new or increased development fee is to be effective until ninety days after adoption by the Council.

SECTION 10 - Development Fee: Assessments

- A. All development fees are to be assessed at the time the building permit is issued. They may be collected on issuance of the building permit or certificate of occupancy, or as may be specified in a development agreement. The City will provide for payment of any development fee on an installment basis. Real estate closing documents involving any parcel of land or improvements are to provide written notification of the fact that a development fee has been assessed or paid and the location of a public office where information about the rights and obligations arising from the assessment or payment of the fee may be obtained.
- B. Development constructed with a valid building permit in effect on the development fee assessment.

SECTION 11 - Development Fee: Appeal

A procedure is hereby provided for appeal from a determination of the development fee to be paid by any individual development.

- A. The first appeal is to be to the Council, for reconsideration.
- B. A second appeal may be made to the Secretary of State.
- C. The third appeal may be made through the Superior Court.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, THIS 27th DAY OF March , 1996.



Miguel A. Lopez, Mayor

ATTEST:



Victor M. Stevens, City Manager

APPROVED AS TO FORM:



Bob Clarke, City Attorney