

ORDINANCE NO. 775

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING SECTION 7-11-160 "OVERSIGHT OF DEVELOPMENT IMPACT FEE PROGRAM" IN ARTICLE 7-11 "DEVELOPMENT FEES" IN CHAPTER 7 "BUILDING" OF THE TOWN CODE TO PROVIDE FOR BIENNIAL AUDITS OF THE TOWN'S IMPACT FEE PROGRAM INSTEAD OF AN ADVISORY COMMITTEE; AND PROVIDING THAT ALL OTHER SECTIONS AND ARTICLES OF CHAPTER 7 "BUILDING", NOT HEREIN AMENDED, SHALL REMAIN IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, ARS §9-463.05 provides for imposition of development impact fees by Arizona cities and towns to offset costs associated with providing "necessary public services" to new development; and

WHEREAS, on March 22, 1995, the Town Council adopted Ordinance No. 357 establishing a procedure for adoption of development impact fees in accordance with ARS §9-463.05; and

WHEREAS, beginning with Resolution No. 624 (April 27, 1995), the Council has implemented certain development impact fees from time to time in order to provide necessary public services related to new development; and

WHEREAS, the Arizona Legislature has also, from time to time, amended ARS §9-463.05 at the behest of home builders; and

WHEREAS, the Legislature had previously adopted SB 1525 which substantially revised ARS §9-463.05 and provided for other limitations on future application of development impact fees; and

WHEREAS, the Arizona League of Cities and Towns prepared a model ordinance establishing procedures for adoption of development impact fees in conformance with SB 1525 and encouraged all Arizona municipalities to adopt the same (after choosing among various options therein); and

WHEREAS, on January 12, 2012, the Council repealed Town Code Article 7-11 "DEVELOPMENT FEES" and enacted a new Article 7-11 "DEVELOPMENT IMPACT FEES" in accordance with the League's model ordinance (having first selected certain of the options that are most compatible with the Town's past practice); and

WHEREAS, the model ordinance allowed two options regarding oversight of the impact fee program, 1) an audit committee or 2) biennial audits and the Town's consultant has recommended that the Town utilize the bi-annual audit option.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, AS FOLLOWS:

SECTION 1. That Section 7-11-160 “Oversight of Development Impact Fee Program” in Article 7-11 “DEVELOPMENT IMPACT FEES” in Chapter 7 “BUILDING” of the Town Code of the Town of Prescott Valley be hereby amended to read as follows.

7-11-160 Oversight of Development Impact Fee Program.

- A. Annual Report. Within 90 days of the end of each fiscal year, the Town shall file with the Town Clerk an unaudited annual report accounting for the collection and use of the fees for each service area and shall post the report on its website in accordance with A.R.S. §9-463.05(N) and (O), as amended.
- B. ~~Advisory Committee. The Town shall establish an Advisory Committee to provide oversight of the development impact fee program, including review of the Land Use Assumptions, Infrastructure Improvements Plan and Fee Report.~~
 - 1. ~~Advisory Committee Composition. The Town of Prescott Valley hereby establishes an Infrastructure Improvements Advisory Committee (hereinafter “Advisory Committee”), composed of six (6) members approved by the Town Council who are qualified to serve as follows:~~
 - a. ~~Three (3) members who are representatives of the real estate, development or building industries. Of those 3 members, at least one (1) must be a representative of the home building industry.~~
 - b. ~~All members of the Advisory Committee must be residents of the County who are at least eighteen (18) years of age.~~
 - c. ~~No member of the Advisory Committee may be a paid employee or elected official of the Town. Persons serving on Town boards, commissions, or other official or unofficial bodies who receive no compensation for the same (but not including reimbursement of the costs of service) may serve on the Advisory Committee.~~
 - d. ~~The members of the Advisory Committee shall be approved by the Town Council (by majority vote) for 3-year terms. No member may serve more than two (2) consecutive terms. Any appointment is subject to the Town’s appointment procedures set forth in Town Code.~~

~~e. For purposes of this Section, a representative of the real estate, development or building industry shall include general contractors or sub-contractors, tradespersons, real estate or title agents, architects, urban planners, businessmen or women associated with the development or construction industries in other capacities such as finance or law, or anyone who is a member of a trade or professional association the membership of which has special knowledge of or interest in the construction, planning or development of municipal infrastructure or commercial or residential buildings. A representative of the homebuilding industry shall mean any of the above specifically associated with the planning, development, construction, sale, or financing of new residential development.~~

~~2. The Advisory Committee shall:~~

~~a. Meet at least annually, with ten (10) days' prior notice to the members of the Committee of all meetings to be provided by the Advisory Committee Chairman. A special meeting of the advisory committee may be called at any time by the Advisory Committee Chairman, or upon the request of the Town Council, and shall meet as necessary to fulfill its obligations as provided in this Subsection.~~

~~b. Review the Town's development impact fees, including the underlying Land Use Assumptions, Infrastructure Improvements Plan, Fee Report, and development fee schedules, monitor the Town's implementation of the Infrastructure Improvements Plan, and audit development impact fee expenditures. The Town shall make available to the advisory committee all supporting documentation and professional reports relied upon by the Town to develop and implement the Infrastructure Improvements Plan and development impact fee report.~~

~~c. Provide written comments as to whether the Land Use Assumptions upon which the Infrastructure Improvements Plan is based are current.~~

~~d. Review the Infrastructure Improvements Plan developed under Section 7-11-080 of this Article, and file written comments on the same. The Committee's written comments must be submitted to the Town no later than 10 business days before the public hearing on the Infrastructure Improvements Plan held pursuant to Section 7-11-090 of this Article.~~

~~e. File a written report by June 30 of each year that:~~

~~i. Summarizes the Advisory Committees recommendations over the~~

~~last twelve (12) months regarding the Town's Infrastructure Improvements Plan.~~

~~ii. Reports any instances in which the Advisory Committee believes that the Town's development impact fees are not proportionate to the cost of providing Necessary Public Services to new development, or where the Town's development impact fee program does not fairly distribute such costs between different Categories of Development. This report shall also advise the Town if there is a need to update or revise the Land Use Assumptions, Infrastructure Improvements Plan and development fee.~~

~~3. The Advisory Committee shall serve in an advisory capacity only. Actions taken or recommendations made by the Advisory Committee are not binding upon the Town and the Town may decide the matter contrary to the recommendations or actions of the Advisory Committee. The failure of the Advisory Committee to file comments or reports as required by this Section shall not prevent the Town from adopting Land Use Assumptions, Infrastructure Improvement Plans, or development impact fees as otherwise prescribed in this Section.~~

~~4. Procedural Rules. The Advisory Committee shall follow the following procedural rules:~~

~~a. A Committee Chair shall be designated by the Town Council.~~

~~b. The Committee Chair shall be in charge of scheduling all regular meetings and shall conduct all meetings whether regular or special.~~

~~c. Five (5) members of the Advisory Committee shall constitute a quorum.~~

~~d. All meetings shall be open for public attendance and shall be conducted in accordance with the Arizona Open Meeting Law, but the public is not entitled to participate in the meetings of the Advisory Committee.~~

~~e. All records of the Advisory Committee shall be public records open to inspection under Arizona law.~~

~~f. Unless otherwise prescribed by the Town, the Advisory Committee shall follow the rules for procedure established by the Town for other boards, commissions, or committees.~~

Biennial Audit. In addition to the Annual Report described in Subsection A of this Section, the Town shall provide for a biennial, certified audit of the Town's Land Use Assumptions,

Infrastructure Improvements Plan and development impact fees.

1. An audit pursuant to this Subsection shall be conducted by one or more Qualified Professionals who are not employees or officials of the Town and who did not prepare the Infrastructure Improvements Plan.
2. The audit shall review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development impact fees assessed, collected, and spent on capital facilities.
3. The audit shall describe the Level of Service in each Service Area, and evaluate any inequities in implementing the Infrastructure Improvements Plan or imposing the development impact fee.
4. The Town shall post the findings of the audit on the Town's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.
5. For purposes of this Section a certified audit shall mean any audit authenticated by one or more of the Qualified Professionals conducting the audit pursuant to paragraph (1) of this Subsection.

Section 2. That all other Sections and Articles of Chapter 7 "BUILDING", of the Town Code, not herein amended, shall remain in full force and effect.

Section 3. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, this 22nd day of August, 2013.

HARVEY C. SKOOG, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

