

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: November 3, 2011**

SUBJECT: Development Impact Fees

SUBMITTING DEPARTMENT: Town Manager's Office

PREPARED BY: Ryan Judy, Deputy Town Manager

AGENDA LOCATION: Comments/Communications , Consent , Work/Study ,
New Business , Public Hearing , Second Reading

ATTACHMENTS: A) SB 1525, B) League of Arizona Cities & Towns Draft Model Ordinance, C)
Resolution 1461, D) Resolution 1712

SUMMARY/BACKGROUND: Development Impact Fees (DIFs) are one-time charges applied to new development in order to alleviate its "impact" on current public improvements and services. The intent is to ensure that "growth pays for growth" and that existing residents are not unduly burdened to pay for new improvements and services needed to accommodate growth. DIFs have been assessed by the Town of Prescott Valley since adoption of a recreation fee by Resolution No. 624 on April 27, 1995. DIFs were most recently revised by Resolution No. 1461 on September 14, 2006.

When DIFs were revised by Resolution No. 1183 on May 8, 2003, the Town Council adopted the recommendation from a citizen's advisory committee that the Circulation System, Public Safety and Civic fees applicable to non-residential development be suspended for a period of three years in order to incentivize the commercial and industrial base of the Town. This suspension was subsequently extended by Resolution No. 1431 (May 25, 2006), Resolution No. 1461 (Sep 14, 2006), Resolution No. 1590 (Jun 26, 2008), and Resolution No. 1712 (Jul 22, 2010). In the meantime, on Nov 9, 2006, the Homebuilders Association of Central Arizona filed suit against the Town and the City of Prescott for this practice. Over time, the two communities were successful in defending the practice both at the local level (Summary Judgment May 4, 2009) and on appeal (Memorandum Decision Sep 28, 2010), based on the argument that non-residential development provides other benefits to the Town in the form of transaction privilege taxes (TPT), property taxes for those jurisdictions that assess a property tax (i.e. school district, fire district), and employment. However, HCA carried its arguments to the legislature and, over several sessions, effectively lobbied for new limits on the ability of cities and towns to collect DIFs. Sweeping changes (including limits on the ability to suspend fees applicable to non-residential development) were adopted by the legislature during the most recent session in SB 1525.

Among other things, SB 1525 prohibits cities and towns from waiving fees for commercial development, enacts refund provisions if projects are not completed within a 10 or 15 year period, establishes service levels and areas, and limits the types of projects for which DIFs may be assessed. DIF studies and rate structures must all be updated in accordance with the new requirements by 2014. Cities and towns may continue to collect existing DIFs in the interim, but certain actions must be taken prior to Jan 1, 2012. For the Town of Prescott Valley, those actions will involve:

- ◆ removing the suspension on non-residential DIFs, effective Jan 1, 2012 (or reimbursing those DIFs from the General Fund). For example, if the Town waived a \$100,000 Circulation System DIF to a retailer as an incentive to locate in Prescott Valley, the Town would be required to

deposit that same amount from the General Fund to the Circulation System DIF Account to offset the loss of revenue; and

- ◆ eliminating the Civic DIF. Eventually, the other DIFs will need to be examined to remove projects from the capital improvement program that are no longer eligible.

The League of Arizona Cities and Towns recently distributed a draft ordinance for cities and towns to examine for possible adoption. The League desires that all cities and towns adopt the same ordinance (or as similar to one another as possible), in order to present a unified front and to prevent future damaging legislation or new lawsuits challenging the legality of DIFs. The Town will need to adopt such an ordinance in the near future to make our Code consistent with SB 1525 and, at the same time, to adopt a resolution adjusting our DIF structure as described above until such a time as a new study is completed. The draft ordinance provides for cities and towns to either provide a biennial audit OR establish an advisory committee to provide oversight of DIFs on an on-going basis. Staff proposes that, in the FY 2012-13 budget process, monies be set aside for a comprehensive new DIF study.

OPTIONS ANALYSIS: For Discussion Only.

ACTION OPTION: For Discussion Only.

RECOMMENDATION: For Discussion Only.

FISCAL ANALYSIS: DIFs have played an important role in the Town's fiscal picture since 1995. It is expected that as Arizona slowly emerges from the current recession, that Prescott Valley (like other Arizona cities and towns) will need to be prepared to have effective DIFs that recover costs for needed public improvements and services for the next round of growth, without stifling that growth.

REVIEWED BY:

Management Services Director _____ Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____