

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1525

AN ACT

AMENDING SECTION 9-463.05, ARIZONA REVISED STATUTES; AMENDING LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 7, SECTION 41, AS AMENDED BY LAWS 2010, CHAPTER 153, SECTION 1; RELATING TO CITY AND TOWN DEVELOPMENT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-463.05, Arizona Revised Statutes, is amended to
3 read:

4 9-463.05. Development fees; imposition by cities and towns;
5 infrastructure improvements plan; annual report;
6 advisory committee; limitation on actions;
7 definitions

8 A. A municipality may assess development fees to offset costs to the
9 municipality associated with providing ~~necessary public services to a~~
10 ~~development, including the costs of infrastructure, improvements, real~~
11 ~~property, engineering and architectural services, financing, other capital~~
12 ~~costs and associated appurtenances, equipment, vehicles, furnishings and~~
13 ~~other personalty~~ NECESSARY PUBLIC SERVICES TO A DEVELOPMENT, INCLUDING THE
14 COSTS OF INFRASTRUCTURE, IMPROVEMENTS, REAL PROPERTY, ENGINEERING AND
15 ARCHITECTURAL SERVICES, FINANCING AND PROFESSIONAL SERVICES REQUIRED FOR THE
16 PREPARATION OR REVISION OF A DEVELOPMENT FEE PURSUANT TO THIS SECTION,
17 INCLUDING THE RELEVANT PORTION OF THE INFRASTRUCTURE IMPROVEMENTS PLAN.

18 B. Development fees assessed by a municipality under this section are
19 subject to the following requirements:

20 1. Development fees shall result in a beneficial use to the
21 development.

22 2. THE MUNICIPALITY SHALL CALCULATE THE DEVELOPMENT FEE BASED ON THE
23 INFRASTRUCTURE IMPROVEMENTS PLAN ADOPTED PURSUANT TO THIS SECTION.

24 3. THE DEVELOPMENT FEE SHALL NOT EXCEED A PROPORTIONATE SHARE OF THE
25 COST OF NECESSARY PUBLIC SERVICES, BASED ON SERVICE UNITS, NEEDED TO PROVIDE
26 NECESSARY PUBLIC SERVICES TO THE DEVELOPMENT.

27 4. COSTS FOR NECESSARY PUBLIC SERVICES MADE NECESSARY BY NEW
28 DEVELOPMENT SHALL BE BASED ON THE SAME LEVEL OF SERVICE PROVIDED TO EXISTING
29 DEVELOPMENT IN THE SERVICE AREA.

30 5. DEVELOPMENT FEES MAY NOT BE USED FOR ANY OF THE FOLLOWING:

31 (a) CONSTRUCTION, ACQUISITION OR EXPANSION OF PUBLIC FACILITIES OR
32 ASSETS OTHER THAN NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS IDENTIFIED
33 IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

34 (b) REPAIR, OPERATION OR MAINTENANCE OF EXISTING OR NEW NECESSARY
35 PUBLIC SERVICES OR FACILITY EXPANSIONS.

36 (c) UPGRADING, UPDATING, EXPANDING, CORRECTING OR REPLACING EXISTING
37 NECESSARY PUBLIC SERVICES TO SERVE EXISTING DEVELOPMENT IN ORDER TO MEET
38 STRICTER SAFETY, EFFICIENCY, ENVIRONMENTAL OR REGULATORY STANDARDS.

39 (d) UPGRADING, UPDATING, EXPANDING, CORRECTING OR REPLACING EXISTING
40 NECESSARY PUBLIC SERVICES TO PROVIDE A HIGHER LEVEL OF SERVICE TO EXISTING
41 DEVELOPMENT.

42 (e) ADMINISTRATIVE, MAINTENANCE OR OPERATING COSTS OF THE
43 MUNICIPALITY.

44 6. ANY DEVELOPMENT FOR WHICH A DEVELOPMENT FEE HAS BEEN PAID IS
45 ENTITLED TO THE USE AND BENEFIT OF THE SERVICES FOR WHICH THE FEE WAS IMPOSED

1 AND IS ENTITLED TO RECEIVE IMMEDIATE SERVICE FROM ANY EXISTING FACILITY WITH
2 AVAILABLE CAPACITY TO SERVE THE NEW SERVICE UNITS IF THE AVAILABLE CAPACITY
3 HAS NOT BEEN RESERVED OR PLEDGED IN CONNECTION WITH THE CONSTRUCTION OR
4 FINANCING OF THE FACILITY.

5 7. DEVELOPMENT FEES MAY BE COLLECTED IF ANY OF THE FOLLOWING OCCURS:

6 (a) THE COLLECTION IS MADE TO PAY FOR A NECESSARY PUBLIC SERVICE OR
7 FACILITY EXPANSION THAT IS IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN
8 AND THE MUNICIPALITY PLANS TO COMPLETE CONSTRUCTION AND TO HAVE THE SERVICE
9 AVAILABLE WITHIN THE TIME PERIOD ESTABLISHED IN THE INFRASTRUCTURE
10 IMPROVEMENT PLAN, BUT IN NO EVENT LONGER THAN THE TIME PERIOD PROVIDED IN
11 SUBSECTION H, PARAGRAPH 3 OF THIS SECTION.

12 (b) THE MUNICIPALITY RESERVES IN THE INFRASTRUCTURE IMPROVEMENTS PLAN
13 ADOPTED PURSUANT TO THIS SECTION OR OTHERWISE AGREES TO RESERVE CAPACITY TO
14 SERVE FUTURE DEVELOPMENT.

15 (c) THE MUNICIPALITY REQUIRES OR AGREES TO ALLOW THE OWNER OF A
16 DEVELOPMENT TO CONSTRUCT OR FINANCE THE NECESSARY PUBLIC SERVICE OR FACILITY
17 EXPANSION AND ANY OF THE FOLLOWING APPLY:

18 (i) THE COSTS INCURRED OR MONEY ADVANCED ARE CREDITED AGAINST OR
19 REIMBURSED FROM THE DEVELOPMENT FEES OTHERWISE DUE FROM A DEVELOPMENT.

20 (ii) THE MUNICIPALITY REIMBURSES THE OWNER FOR THOSE COSTS FROM THE
21 DEVELOPMENT FEES PAID FROM ALL DEVELOPMENTS THAT WILL USE THOSE NECESSARY
22 PUBLIC SERVICES OR FACILITY EXPANSIONS.

23 (iii) FOR THOSE COSTS INCURRED THE MUNICIPALITY ALLOWS THE OWNER TO
24 ASSIGN THE CREDITS OR REIMBURSEMENT RIGHTS FROM THE DEVELOPMENT FEES
25 OTHERWISE DUE FROM A DEVELOPMENT TO OTHER DEVELOPMENTS FOR THE SAME CATEGORY
26 OF NECESSARY PUBLIC SERVICES IN THE SAME SERVICE AREA.

27 8. PROJECTED INTEREST CHARGES AND OTHER FINANCE COSTS MAY BE INCLUDED
28 IN DETERMINING THE AMOUNT OF DEVELOPMENT FEES ONLY IF THE MONIES ARE USED FOR
29 THE PAYMENT OF PRINCIPAL AND INTEREST ON THE PORTION OF THE BONDS, NOTES OR
30 OTHER OBLIGATIONS ISSUED TO FINANCE CONSTRUCTION OF NECESSARY PUBLIC SERVICES
31 OR FACILITY EXPANSIONS IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

32 ~~2-~~ 9. Monies received from development fees assessed pursuant to this
33 section shall be placed in a separate fund and accounted for separately and
34 may only be used for the purposes authorized by this section. Monies
35 received from a development fee identified in an infrastructure improvements
36 plan adopted or ~~amended~~ UPDATED pursuant to subsection D of this section
37 shall be used to provide the same category of necessary public ~~service~~
38 SERVICES OR FACILITY EXPANSIONS for which the development fee was assessed
39 AND for the benefit of the same SERVICE area, as defined in the
40 infrastructure improvements plan, ~~within~~ IN which the development fee was
41 assessed. Interest earned on monies in the separate fund shall be credited
42 to the fund.

43 ~~3-~~ 10. The schedule for payment of fees shall be provided by the
44 municipality. Based on the cost identified in the infrastructure
45 improvements plan, the municipality shall provide a credit toward the payment

1 of a development fee for the required or agreed to dedication of public
2 sites, improvements and other necessary public services OR FACILITY
3 EXPANSIONS included in the infrastructure improvements plan and for which a
4 development fee is assessed, to the extent the public sites, improvements and
5 necessary public services OR FACILITY EXPANSIONS are provided by the
6 developer. The developer of residential dwelling units shall be required to
7 pay development fees when construction permits for the dwelling units are
8 issued, or at a later time if specified in a development agreement pursuant
9 to section 9-500.05. If a development agreement provides for fees to be paid
10 at a time later than the issuance of construction permits, the deferred fees
11 shall be paid no later than fifteen days after the issuance of a certificate
12 of occupancy. The development agreement shall provide for the value of any
13 deferred fees to be supported by appropriate security, including a surety
14 bond, letter of credit or cash bond.

15 ~~4. The amount of any development fees assessed pursuant to this~~
16 ~~section must bear a reasonable relationship to the burden imposed on the~~
17 ~~municipality to provide additional necessary public services to the~~
18 ~~development.~~

19 11. IF A MUNICIPALITY REQUIRES AS A CONDITION OF DEVELOPMENT APPROVAL
20 THE CONSTRUCTION OR IMPROVEMENT OF, CONTRIBUTIONS TO OR DEDICATION OF ANY
21 FACILITIES THAT WERE NOT INCLUDED IN A PREVIOUSLY ADOPTED INFRASTRUCTURE
22 IMPROVEMENTS PLAN, THE MUNICIPALITY SHALL CAUSE THE INFRASTRUCTURE
23 IMPROVEMENTS PLAN TO BE AMENDED TO INCLUDE THE FACILITIES AND SHALL PROVIDE A
24 CREDIT TOWARD THE PAYMENT OF A DEVELOPMENT FEE FOR THE CONSTRUCTION,
25 IMPROVEMENT, CONTRIBUTION OR DEDICATION OF THE FACILITIES TO THE EXTENT THAT
26 THE FACILITIES WILL SUBSTITUTE FOR OR OTHERWISE REDUCE THE NEED FOR OTHER
27 SIMILAR FACILITIES IN THE INFRASTRUCTURE IMPROVEMENTS PLAN FOR WHICH
28 DEVELOPMENT FEES WERE ASSESSED.

29 12. The municipality shall forecast the contribution to be made in the
30 future in cash or by taxes, fees, assessments or other sources of revenue
31 derived from the property owner towards the capital costs of the necessary
32 public service covered by the development fee and shall include these
33 contributions in determining the extent of the burden imposed by the
34 development. BEGINNING AUGUST 1, 2014, FOR PURPOSES OF CALCULATING THE
35 REQUIRED OFFSET TO DEVELOPMENT FEES PURSUANT TO THIS SUBSECTION, IF A
36 MUNICIPALITY IMPOSES A CONSTRUCTION CONTRACTING OR SIMILAR EXCISE TAX RATE IN
37 EXCESS OF THE PERCENTAGE AMOUNT OF THE TRANSACTION PRIVILEGE TAX RATE IMPOSED
38 ON THE MAJORITY OF OTHER TRANSACTION PRIVILEGE TAX CLASSIFICATIONS, THE
39 ENTIRE EXCESS PORTION OF THE CONSTRUCTION CONTRACTING OR SIMILAR EXCISE TAX
40 SHALL BE TREATED AS A CONTRIBUTION TO THE CAPITAL COSTS OF NECESSARY PUBLIC
41 SERVICES PROVIDED TO DEVELOPMENT FOR WHICH DEVELOPMENT FEES ARE ASSESSED,
42 UNLESS THE EXCESS PORTION WAS ALREADY TAKEN INTO ACCOUNT FOR SUCH PURPOSE
43 PURSUANT TO THIS SUBSECTION.

44 ~~5-~~ 13. If development fees are assessed by a municipality, ~~such~~ THE
45 fees shall be assessed ~~in a nondiscriminatory manner~~ AGAINST COMMERCIAL,

1 RESIDENTIAL AND INDUSTRIAL DEVELOPMENT, EXCEPT THAT THE MUNICIPALITY MAY
2 DISTINGUISH BETWEEN DIFFERENT CATEGORIES OF RESIDENTIAL, COMMERCIAL AND
3 INDUSTRIAL DEVELOPMENT IN ASSESSING THE COSTS TO THE MUNICIPALITY OF
4 PROVIDING NECESSARY PUBLIC SERVICES TO NEW DEVELOPMENT AND IN DETERMINING THE
5 AMOUNT OF THE DEVELOPMENT FEE APPLICABLE TO THE CATEGORY OF DEVELOPMENT. IF
6 A MUNICIPALITY AGREES TO WAIVE ANY OF THE DEVELOPMENT FEES ASSESSED ON A
7 DEVELOPMENT, THE MUNICIPALITY SHALL REIMBURSE THE APPROPRIATE DEVELOPMENT FEE
8 ACCOUNTS FOR THE AMOUNT THAT WAS WAIVED. THE MUNICIPALITY SHALL PROVIDE
9 NOTICE OF ANY SUCH WAIVER TO THE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO
10 SUBSECTION G OF THIS SECTION WITHIN THIRTY DAYS.

11 ~~6-~~ 14. In determining and assessing a development fee applying to
12 land in a community facilities district established under title 48, chapter
13 4, article 6, the municipality shall take into account all public
14 infrastructure provided by the district and capital costs paid by the
15 district for necessary public services and shall not assess a portion of the
16 development fee based on the infrastructure or costs.

17 C. A municipality shall give at least ~~sixty~~ THIRTY days' advance
18 notice of intention to assess a ~~new or modified~~ development fee and shall
19 release to the public AND POST ON ITS WEBSITE OR THE WEBSITE OF AN
20 ASSOCIATION OF CITIES AND TOWNS IF A MUNICIPALITY DOES NOT HAVE A WEBSITE a
21 written report ~~that identifies the methodology for calculating the amount of~~
22 ~~the development fee, explains the relationship between the development fee~~
23 ~~and the infrastructure improvements plan, includes documentation that~~
24 ~~supports the assessment of a new or modified development fee and identifies~~
25 ~~any index or indices to be used for automatic adjustment of the development~~
26 ~~fee pursuant to subsection G of this section and the timing of those~~
27 ~~adjustments~~ OF THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN
28 ADOPTED PURSUANT TO SUBSECTION D OF THIS SECTION. The municipality shall
29 conduct a public hearing on the proposed ~~new or modified~~ development fee at
30 any time after the expiration of the ~~sixty~~ THIRTY day notice of intention to
31 assess a ~~new or modified~~ development fee and at least thirty days ~~prior to~~
32 BEFORE the scheduled date of adoption of the ~~new or modified~~ fee by the
33 governing body. WITHIN SIXTY DAYS AFTER THE DATE OF THE PUBLIC HEARING ON
34 THE PROPOSED DEVELOPMENT FEE, A MUNICIPALITY SHALL APPROVE OR DISAPPROVE THE
35 IMPOSITION OF THE DEVELOPMENT FEE. A MUNICIPALITY SHALL NOT ADOPT AN
36 ORDINANCE, ORDER OR RESOLUTION APPROVING A DEVELOPMENT FEE AS AN EMERGENCY
37 MEASURE. A development fee assessed pursuant to this section shall not be
38 effective until seventy-five days after its formal adoption by the governing
39 body of the municipality. Nothing in this subsection shall affect any
40 development fee adopted ~~prior to~~ BEFORE July 24, 1982.

41 D. Before the ~~assessment~~ ADOPTION OR AMENDMENT of a ~~new or modified~~
42 development fee, the governing body of the municipality shall adopt or ~~amend~~
43 UPDATE ~~an~~ THE LAND USE ASSUMPTIONS AND infrastructure improvements plan FOR
44 THE DESIGNATED SERVICE AREA. The municipality shall conduct a public hearing
45 on the LAND USE ASSUMPTIONS AND infrastructure improvements plan at least

1 thirty days before the adoption or ~~amendment~~ UPDATE of the plan. The
2 municipality shall release the plan to the public, POST THE PLAN ON ITS
3 WEBSITE OR THE WEBSITE OF AN ASSOCIATION OF CITIES AND TOWNS IF THE
4 MUNICIPALITY DOES NOT HAVE A WEBSITE, INCLUDING IN THE POSTING ITS LAND USE
5 ASSUMPTIONS, THE TIME PERIOD OF THE PROJECTIONS, A DESCRIPTION OF THE
6 NECESSARY PUBLIC SERVICES INCLUDED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN
7 AND A MAP OF THE SERVICE AREA TO WHICH THE LAND USE ASSUMPTIONS APPLY, make
8 available to the public the documents used to prepare the ASSUMPTIONS AND
9 plan and provide public notice at least sixty days before the public hearing,
10 subject to the following:

11 ~~1. An infrastructure improvements plan may be adopted concurrently~~
12 ~~with the report required by subsection C of this section, and the~~
13 ~~municipality may provide for and schedule the notices and hearings required~~
14 ~~by this subsection together with the notices and hearings required by~~
15 ~~subsection C of this section.~~

16 ~~2. A municipality may amend an infrastructure improvements plan~~
17 ~~without a public hearing if the amendment addresses only elements of~~
18 ~~necessary public services that are included in the existing infrastructure~~
19 ~~improvements plan. The municipality shall provide public notice of those~~
20 ~~amendments at least fourteen days in advance of their effective date.~~

21 1. THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN SHALL
22 BE APPROVED OR DISAPPROVED WITHIN SIXTY DAYS AFTER THE PUBLIC HEARING ON THE
23 LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN AND AT LEAST THIRTY
24 DAYS BEFORE THE PUBLIC HEARING ON THE REPORT REQUIRED BY SUBSECTION C OF THIS
25 SECTION. A MUNICIPALITY SHALL NOT ADOPT AN ORDINANCE, ORDER OR RESOLUTION
26 APPROVING THE LAND USE ASSUMPTIONS OR INFRASTRUCTURE IMPROVEMENTS PLAN AS AN
27 EMERGENCY MEASURE.

28 2. AN INFRASTRUCTURE IMPROVEMENTS PLAN SHALL BE DEVELOPED BY QUALIFIED
29 PROFESSIONALS USING GENERALLY ACCEPTED ENGINEERING AND PLANNING PRACTICES
30 PURSUANT TO SUBSECTION E OF THIS SECTION.

31 3. A MUNICIPALITY SHALL UPDATE THE LAND USE ASSUMPTIONS AND
32 INFRASTRUCTURE IMPROVEMENTS PLAN AT LEAST EVERY FIVE YEARS. THE INITIAL FIVE
33 YEAR PERIOD BEGINS ON THE DAY THE INFRASTRUCTURE IMPROVEMENTS PLAN IS
34 ADOPTED. THE MUNICIPALITY SHALL REVIEW AND EVALUATE ITS CURRENT LAND USE
35 ASSUMPTIONS AND SHALL CAUSE AN UPDATE OF THE INFRASTRUCTURE IMPROVEMENTS PLAN
36 TO BE PREPARED PURSUANT TO THIS SECTION.

37 4. WITHIN SIXTY DAYS AFTER COMPLETION OF THE UPDATED LAND USE
38 ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN, THE MUNICIPALITY SHALL
39 SCHEDULE AND PROVIDE NOTICE OF A PUBLIC HEARING TO DISCUSS AND REVIEW THE
40 UPDATE AND SHALL DETERMINE WHETHER TO AMEND THE ASSUMPTIONS AND PLAN.

41 5. A MUNICIPALITY SHALL HOLD A PUBLIC HEARING TO DISCUSS THE PROPOSED
42 AMENDMENTS TO THE LAND USE ASSUMPTIONS, THE INFRASTRUCTURE IMPROVEMENTS PLAN
43 OR THE DEVELOPMENT FEE. THE LAND USE ASSUMPTIONS AND THE INFRASTRUCTURE
44 IMPROVEMENTS PLAN, INCLUDING THE AMOUNT OF ANY PROPOSED CHANGES TO THE
45 DEVELOPMENT FEE PER SERVICE UNIT, SHALL BE MADE AVAILABLE TO THE PUBLIC ON OR

1 BEFORE THE DATE OF THE FIRST PUBLICATION OF THE NOTICE OF THE HEARING ON THE
2 AMENDMENTS.

3 6. THE NOTICE AND HEARING PROCEDURES PRESCRIBED IN PARAGRAPH 1 OF THIS
4 SUBSECTION APPLY TO A HEARING ON THE AMENDMENT OF LAND USE ASSUMPTIONS, AN
5 INFRASTRUCTURE IMPROVEMENTS PLAN OR A DEVELOPMENT FEE. WITHIN SIXTY DAYS
6 AFTER THE DATE OF THE PUBLIC HEARING ON THE AMENDMENTS, A MUNICIPALITY SHALL
7 APPROVE OR DISAPPROVE THE AMENDMENTS TO THE LAND USE ASSUMPTIONS,
8 INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEE. A MUNICIPALITY SHALL NOT
9 ADOPT AN ORDINANCE, ORDER OR RESOLUTION APPROVING THE AMENDED LAND USE
10 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEE AS AN
11 EMERGENCY MEASURE.

12 7. THE ADVISORY COMMITTEE ESTABLISHED UNDER SUBSECTION G OF THIS
13 SECTION SHALL FILE ITS WRITTEN COMMENTS ON ANY PROPOSED OR UPDATED LAND USE
14 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEES BEFORE THE
15 FIFTH BUSINESS DAY BEFORE THE DATE OF THE PUBLIC HEARING ON THE PROPOSED OR
16 UPDATED ASSUMPTIONS, PLAN AND FEES.

17 8. IF, AT THE TIME AN UPDATE AS PRESCRIBED IN PARAGRAPH 3 OF THIS
18 SUBSECTION IS REQUIRED, THE MUNICIPALITY DETERMINES THAT NO CHANGES TO THE
19 LAND USE ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES
20 ARE NEEDED, THE MUNICIPALITY MAY AS AN ALTERNATIVE TO THE UPDATING
21 REQUIREMENTS OF THIS SUBSECTION PUBLISH NOTICE OF ITS DETERMINATION ON ITS
22 WEBSITE AND INCLUDE THE FOLLOWING:

23 (a) A STATEMENT THAT THE MUNICIPALITY HAS DETERMINED THAT NO CHANGE TO
24 THE LAND USE ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEE
25 IS NECESSARY.

26 (b) A DESCRIPTION AND MAP OF THE SERVICE AREA IN WHICH AN UPDATE HAS
27 BEEN DETERMINED TO BE UNNECESSARY.

28 (c) A STATEMENT THAT BY A SPECIFIED DATE, WHICH SHALL BE AT LEAST
29 SIXTY DAYS AFTER THE DATE OF PUBLICATION OF THE FIRST NOTICE, A PERSON MAY
30 MAKE A WRITTEN REQUEST TO THE MUNICIPALITY REQUESTING THAT THE LAND USE
31 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEE BE UPDATED.

32 (d) A STATEMENT IDENTIFYING THE PERSON OR ENTITY TO WHOM THE WRITTEN
33 REQUEST FOR AN UPDATE SHOULD BE SENT.

34 9. IF, BY THE DATE SPECIFIED PURSUANT TO PARAGRAPH 8 OF THIS
35 SUBSECTION, A PERSON REQUESTS IN WRITING THAT THE LAND USE ASSUMPTIONS,
36 INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEE BE UPDATED, THE
37 MUNICIPALITY SHALL CAUSE, ACCEPT OR REJECT AN UPDATE OF THE ASSUMPTIONS AND
38 PLAN TO BE PREPARED PURSUANT TO THIS SUBSECTION.

39 10. NOTWITHSTANDING THE NOTICE AND HEARING REQUIREMENTS FOR ADOPTION OF
40 AN INFRASTRUCTURE IMPROVEMENTS PLAN, A MUNICIPALITY MAY AMEND AN
41 INFRASTRUCTURE IMPROVEMENTS PLAN ADOPTED PURSUANT TO THIS SECTION WITHOUT A
42 PUBLIC HEARING IF THE AMENDMENT ADDRESSES ONLY ELEMENTS OF NECESSARY PUBLIC
43 SERVICES IN THE EXISTING INFRASTRUCTURE IMPROVEMENTS PLAN AND THE CHANGES TO
44 THE PLAN WILL NOT, INDIVIDUALLY OR CUMULATIVELY WITH OTHER AMENDMENTS ADOPTED
45 PURSUANT TO THIS SUBSECTION, INCREASE THE LEVEL OF SERVICE IN THE SERVICE

1 AREA OR CAUSE A DEVELOPMENT FEE INCREASE OF GREATER THAN FIVE PER CENT WHEN A
2 NEW OR MODIFIED DEVELOPMENT FEE IS ASSESSED PURSUANT TO THIS SECTION. THE
3 MUNICIPALITY SHALL PROVIDE NOTICE OF ANY SUCH AMENDMENT AT LEAST THIRTY DAYS
4 BEFORE ADOPTION, SHALL POST THE AMENDMENT ON ITS WEBSITE OR ON THE WEBSITE OF
5 AN ASSOCIATION OF CITIES AND TOWNS IF THE MUNICIPALITY DOES NOT HAVE A
6 WEBSITE AND SHALL PROVIDE NOTICE TO THE ADVISORY COMMITTEE ESTABLISHED
7 PURSUANT TO SUBSECTION G OF THIS SECTION THAT THE AMENDMENT COMPLIES WITH
8 THIS SUBSECTION.

9 E. For each necessary public service that is the subject of a
10 development fee, the infrastructure improvements plan shall INCLUDE:

11 ~~1. Estimate future necessary public services that will be required as~~
12 ~~a result of new development in the area, as defined in the infrastructure~~
13 ~~improvements plan, within which the development fee will be assessed and the~~
14 ~~basis for the estimate, including a comparison of the necessary public~~
15 ~~services provided to existing development and the necessary public services~~
16 ~~to be provided to new development.~~

17 ~~2. Forecast the costs of infrastructure, improvements, real property,~~
18 ~~financing, other capital costs and associated appurtenances, equipment,~~
19 ~~vehicles, furnishings and other personalty that will be associated with~~
20 ~~meeting those future needs for necessary public services.~~

21 ~~3. Forecast the revenue sources that will be available to fund the~~
22 ~~necessary public services and estimate the time required to finance and~~
23 ~~provide the necessary public services.~~

24 1. A DESCRIPTION OF THE EXISTING NECESSARY PUBLIC SERVICES IN THE
25 SERVICE AREA AND THE COSTS TO UPGRADE, UPDATE, IMPROVE, EXPAND, CORRECT OR
26 REPLACE THOSE NECESSARY PUBLIC SERVICES TO MEET EXISTING NEEDS AND USAGE AND
27 STRICTER SAFETY, EFFICIENCY, ENVIRONMENTAL OR REGULATORY STANDARDS, WHICH
28 SHALL BE PREPARED BY QUALIFIED PROFESSIONALS LICENSED IN THIS STATE, AS
29 APPLICABLE.

30 2. AN ANALYSIS OF THE TOTAL CAPACITY, THE LEVEL OF CURRENT USAGE AND
31 COMMITMENTS FOR USAGE OF CAPACITY OF THE EXISTING NECESSARY PUBLIC SERVICES,
32 WHICH SHALL BE PREPARED BY QUALIFIED PROFESSIONALS LICENSED IN THIS STATE, AS
33 APPLICABLE.

34 3. A DESCRIPTION OF ALL OR THE PARTS OF THE NECESSARY PUBLIC SERVICES
35 OR FACILITY EXPANSIONS AND THEIR COSTS NECESSITATED BY AND ATTRIBUTABLE TO
36 DEVELOPMENT IN THE SERVICE AREA BASED ON THE APPROVED LAND USE ASSUMPTIONS,
37 INCLUDING A FORECAST OF THE COSTS OF INFRASTRUCTURE, IMPROVEMENTS, REAL
38 PROPERTY, FINANCING, ENGINEERING AND ARCHITECTURAL SERVICES, WHICH SHALL BE
39 PREPARED BY QUALIFIED PROFESSIONALS LICENSED IN THIS STATE, AS APPLICABLE.

40 4. A TABLE ESTABLISHING THE SPECIFIC LEVEL OR QUANTITY OF USE,
41 CONSUMPTION, GENERATION OR DISCHARGE OF A SERVICE UNIT FOR EACH CATEGORY OF
42 NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS AND AN EQUIVALENCY OR
43 CONVERSION TABLE ESTABLISHING THE RATIO OF A SERVICE UNIT TO VARIOUS TYPES OF
44 LAND USES, INCLUDING RESIDENTIAL, COMMERCIAL AND INDUSTRIAL.

1 5. THE TOTAL NUMBER OF PROJECTED SERVICE UNITS NECESSITATED BY AND
2 ATTRIBUTABLE TO NEW DEVELOPMENT IN THE SERVICE AREA BASED ON THE APPROVED
3 LAND USE ASSUMPTIONS AND CALCULATED PURSUANT TO GENERALLY ACCEPTED
4 ENGINEERING AND PLANNING CRITERIA.

5 6. THE PROJECTED DEMAND FOR NECESSARY PUBLIC SERVICES OR FACILITY
6 EXPANSIONS REQUIRED BY NEW SERVICE UNITS FOR A PERIOD NOT TO EXCEED TEN
7 YEARS.

8 7. A FORECAST OF REVENUES GENERATED BY NEW SERVICE UNITS OTHER THAN
9 DEVELOPMENT FEES, WHICH SHALL INCLUDE ESTIMATED STATE-SHARED REVENUE, HIGHWAY
10 USERS REVENUE, FEDERAL REVENUE, AD VALOREM PROPERTY TAXES, CONSTRUCTION
11 CONTRACTING OR SIMILAR EXCISE TAXES AND THE CAPITAL RECOVERY PORTION OF
12 UTILITY FEES ATTRIBUTABLE TO DEVELOPMENT BASED ON THE APPROVED LAND USE
13 ASSUMPTIONS, AND A PLAN TO INCLUDE THESE CONTRIBUTIONS IN DETERMINING THE
14 EXTENT OF THE BURDEN IMPOSED BY THE DEVELOPMENT AS REQUIRED IN SUBSECTION B,
15 PARAGRAPH 12 OF THIS SECTION.

16 F. ~~Except for adjustments pursuant to subsection G of this section,~~ A
17 municipality's development fee ordinance shall provide that a new development
18 fee or an increased portion of a modified development fee shall not be
19 assessed against a development for twenty-four months after the date ~~of the~~
20 ~~municipality's final approval of the development if no material changes are~~
21 ~~made to the site plan or subdivision plat that was the subject of the final~~
22 ~~approval~~ THAT THE MUNICIPALITY ISSUES THE FINAL APPROVAL FOR A COMMERCIAL,
23 INDUSTRIAL OR MULTIFAMILY DEVELOPMENT OR THE DATE THAT THE FIRST BUILDING
24 PERMIT IS ISSUED FOR A RESIDENTIAL DEVELOPMENT PURSUANT TO AN APPROVED SITE
25 PLAN OR SUBDIVISION PLAT, PROVIDED THAT NO SUBSEQUENT CHANGES ARE MADE TO THE
26 APPROVED SITE PLAN OR SUBDIVISION PLAT THAT WOULD INCREASE THE NUMBER OF
27 SERVICE UNITS. IF THE NUMBER OF SERVICE UNITS INCREASES, THE NEW OR
28 INCREASED PORTION OF A MODIFIED DEVELOPMENT FEE SHALL BE LIMITED TO THE
29 AMOUNT ATTRIBUTABLE TO THE ADDITIONAL SERVICE UNITS. The twenty-four month
30 period shall not be extended by a renewal or amendment of the site plan or
31 the final subdivision plat that was the subject of the final approval. The
32 municipality shall issue, on request, a written statement of the development
33 fee schedule applicable to the development. IF, AFTER THE DATE OF THE
34 MUNICIPALITY'S FINAL APPROVAL OF A DEVELOPMENT, THE MUNICIPALITY REDUCES THE
35 DEVELOPMENT FEE ASSESSED ON DEVELOPMENT, THE REDUCED FEE SHALL APPLY TO THE
36 DEVELOPMENT.

37 G. ~~A municipality may automatically adjust a development fee on an~~
38 ~~annual basis without a public hearing if the adjustment is based on a~~
39 ~~nationally recognized index applicable to the cost of the necessary public~~
40 ~~service that is the subject of the development fee and the adjustment~~
41 ~~mechanism is identified in the report required by subsection C of this~~
42 ~~section. The municipality shall provide public notice of those adjustments~~
43 ~~at least thirty days in advance of their effective date.~~

1 G. A MUNICIPALITY SHALL DO ONE OF THE FOLLOWING:

2 1. BEFORE THE ADOPTION OF PROPOSED OR UPDATED LAND USE ASSUMPTIONS,
3 INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEES AS PRESCRIBED IN
4 SUBSECTION D OF THIS SECTION, THE MUNICIPALITY SHALL APPOINT AN
5 INFRASTRUCTURE IMPROVEMENTS ADVISORY COMMITTEE, SUBJECT TO THE FOLLOWING
6 REQUIREMENTS:

7 (a) THE ADVISORY COMMITTEE SHALL BE COMPOSED OF AT LEAST FIVE MEMBERS
8 WHO ARE APPOINTED BY THE GOVERNING BODY OF THE MUNICIPALITY. AT LEAST FIFTY
9 PER CENT OF THE MEMBERS OF THE ADVISORY COMMITTEE MUST BE REPRESENTATIVES OF
10 THE REAL ESTATE, DEVELOPMENT OR BUILDING INDUSTRIES, OF WHICH AT LEAST ONE
11 MEMBER OF THE COMMITTEE MUST BE FROM THE HOME BUILDING INDUSTRY. MEMBERS
12 SHALL NOT BE EMPLOYEES OR OFFICIALS OF THE MUNICIPALITY.

13 (b) THE ADVISORY COMMITTEE SHALL SERVE IN AN ADVISORY CAPACITY AND
14 SHALL:

15 (i) ADVISE THE MUNICIPALITY IN ADOPTING LAND USE ASSUMPTIONS AND IN
16 DETERMINING WHETHER THE ASSUMPTIONS ARE IN CONFORMANCE WITH THE GENERAL PLAN
17 OF THE MUNICIPALITY.

18 (ii) REVIEW THE INFRASTRUCTURE IMPROVEMENTS PLAN AND FILE WRITTEN
19 COMMENTS.

20 (iii) MONITOR AND EVALUATE IMPLEMENTATION OF THE INFRASTRUCTURE
21 IMPROVEMENTS PLAN.

22 (iv) EVERY YEAR FILE REPORTS WITH RESPECT TO THE PROGRESS OF THE
23 INFRASTRUCTURE IMPROVEMENTS PLAN AND THE COLLECTION AND EXPENDITURES OF
24 DEVELOPMENT FEES AND REPORT TO THE MUNICIPALITY ANY PERCEIVED INEQUITIES IN
25 IMPLEMENTING THE PLAN OR IMPOSING THE DEVELOPMENT FEE.

26 (v) ADVISE THE MUNICIPALITY OF THE NEED TO UPDATE OR REVISE THE LAND
27 USE ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEE.

28 (c) THE MUNICIPALITY SHALL MAKE AVAILABLE TO THE ADVISORY COMMITTEE
29 ANY PROFESSIONAL REPORTS WITH RESPECT TO DEVELOPING AND IMPLEMENTING THE
30 INFRASTRUCTURE IMPROVEMENTS PLAN.

31 (d) THE MUNICIPALITY SHALL ADOPT PROCEDURAL RULES FOR THE ADVISORY
32 COMMITTEE TO FOLLOW IN CARRYING OUT THE COMMITTEE'S DUTIES.

33 2. IN LIEU OF CREATING AN ADVISORY COMMITTEE PURSUANT TO PARAGRAPH 1
34 OF THIS SUBSECTION, PROVIDE FOR A BIENNIAL CERTIFIED AUDIT OF THE
35 MUNICIPALITY'S LAND USE ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND
36 DEVELOPMENT FEES. AN AUDIT PURSUANT TO THIS PARAGRAPH SHALL BE CONDUCTED BY
37 ONE OR MORE QUALIFIED PROFESSIONALS WHO ARE NOT EMPLOYEES OR OFFICIALS OF THE
38 MUNICIPALITY AND WHO DID NOT PREPARE THE INFRASTRUCTURE IMPROVEMENTS PLAN.
39 THE AUDIT SHALL REVIEW THE PROGRESS OF THE INFRASTRUCTURE IMPROVEMENTS PLAN,
40 INCLUDING THE COLLECTION AND EXPENDITURES OF DEVELOPMENT FEES FOR EACH
41 PROJECT IN THE PLAN, AND EVALUATE ANY INEQUITIES IN IMPLEMENTING THE PLAN OR
42 IMPOSING THE DEVELOPMENT FEE. THE MUNICIPALITY SHALL POST THE FINDINGS OF
43 THE AUDIT ON THE MUNICIPALITY'S WEBSITE OR THE WEBSITE OF AN ASSOCIATION OF
44 CITIES AND TOWNS IF THE MUNICIPALITY DOES NOT HAVE A WEBSITE AND SHALL

1 CONDUCT A PUBLIC HEARING ON THE AUDIT WITHIN SIXTY DAYS OF THE RELEASE OF THE
2 AUDIT TO THE PUBLIC.

3 H. ON WRITTEN REQUEST, AN OWNER OF REAL PROPERTY FOR WHICH A
4 DEVELOPMENT FEE HAS BEEN PAID AFTER JULY 31, 2014 IS ENTITLED TO A REFUND OF
5 A DEVELOPMENT FEE OR ANY PART OF A DEVELOPMENT FEE IF:

6 1. PURSUANT TO SUBSECTION B, PARAGRAPH 6 OF THIS SECTION, EXISTING
7 FACILITIES ARE AVAILABLE AND SERVICE IS NOT PROVIDED.

8 2. THE MUNICIPALITY HAS, AFTER COLLECTING THE FEE TO CONSTRUCT A
9 FACILITY WHEN SERVICE IS NOT AVAILABLE, FAILED TO COMPLETE CONSTRUCTION
10 WITHIN THE TIME PERIOD IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN,
11 BUT IN NO EVENT LATER THAN THE TIME PERIOD SPECIFIED IN PARAGRAPH 3 OF THIS
12 SUBSECTION.

13 3. FOR A DEVELOPMENT FEE OTHER THAN A DEVELOPMENT FEE FOR WATER OR
14 WASTEWATER FACILITIES, ANY PART OF THE DEVELOPMENT FEE IS NOT SPENT AS
15 AUTHORIZED BY THIS SECTION WITHIN TEN YEARS AFTER THE FEE HAS BEEN PAID OR,
16 FOR A DEVELOPMENT FEE FOR WATER OR WASTEWATER FACILITIES, ANY PART OF THE
17 DEVELOPMENT FEE IS NOT SPENT AS AUTHORIZED BY THIS SECTION WITHIN FIFTEEN
18 YEARS AFTER THE FEE HAS BEEN PAID.

19 I. IF THE DEVELOPMENT FEE WAS COLLECTED FOR THE CONSTRUCTION OF ALL OR
20 A PORTION OF A SPECIFIC ITEM OF INFRASTRUCTURE, AND ON COMPLETION OF THE
21 INFRASTRUCTURE THE MUNICIPALITY DETERMINES THAT THE ACTUAL COST OF
22 CONSTRUCTION WAS LESS THAN THE FORECASTED COST OF CONSTRUCTION ON WHICH THE
23 DEVELOPMENT FEE WAS BASED AND THE DIFFERENCE BETWEEN THE ACTUAL AND ESTIMATED
24 COST IS GREATER THAN TEN PER CENT, THE CURRENT OWNER MAY RECEIVE A REFUND OF
25 THE PORTION OF THE DEVELOPMENT FEE EQUAL TO THE DIFFERENCE BETWEEN THE
26 DEVELOPMENT FEE PAID AND THE DEVELOPMENT FEE THAT WOULD HAVE BEEN DUE IF THE
27 DEVELOPMENT FEE HAD BEEN CALCULATED AT THE ACTUAL CONSTRUCTION COST.

28 J. A REFUND SHALL INCLUDE ANY INTEREST EARNED BY THE MUNICIPALITY FROM
29 THE DATE OF COLLECTION TO THE DATE OF REFUND ON THE AMOUNT OF THE REFUNDED
30 FEE. ALL REFUNDS SHALL BE MADE TO THE RECORD OWNER OF THE PROPERTY AT THE
31 TIME THE REFUND IS PAID. IF THE DEVELOPMENT FEE IS PAID BY A GOVERNMENTAL
32 ENTITY, THE REFUND SHALL BE PAID TO THE GOVERNMENTAL ENTITY.

33 K. A DEVELOPMENT FEE THAT WAS ADOPTED BEFORE JANUARY 1, 2012 MAY
34 CONTINUE TO BE ASSESSED ONLY TO THE EXTENT THAT IT WILL BE USED TO PROVIDE A
35 NECESSARY PUBLIC SERVICE FOR WHICH DEVELOPMENT FEES CAN BE ASSESSED PURSUANT
36 TO THIS SECTION AND SHALL BE REPLACED BY A DEVELOPMENT FEE IMPOSED UNDER THIS
37 SECTION ON OR BEFORE AUGUST 1, 2014. ANY MUNICIPALITY HAVING A DEVELOPMENT
38 FEE THAT HAS NOT BEEN REPLACED UNDER THIS SECTION ON OR BEFORE AUGUST 1, 2014
39 SHALL NOT COLLECT DEVELOPMENT FEES UNTIL THE DEVELOPMENT FEE HAS BEEN
40 REPLACED WITH A FEE THAT COMPLIES WITH THIS SECTION. ANY DEVELOPMENT FEE
41 MONIES COLLECTED BEFORE JANUARY 1, 2012 REMAINING IN A DEVELOPMENT FEE
42 ACCOUNT:

43 1. SHALL BE USED TOWARDS THE SAME CATEGORY OF NECESSARY PUBLIC
44 SERVICES AS AUTHORIZED BY THIS SECTION.

1 2. IF DEVELOPMENT FEES WERE COLLECTED FOR A PURPOSE NOT AUTHORIZED BY
2 THIS SECTION, SHALL BE USED FOR THE PURPOSE FOR WHICH THEY WERE COLLECTED ON
3 OR BEFORE JANUARY 1, 2020, AND AFTER WHICH, IF NOT SPENT, SHALL BE
4 DISTRIBUTED EQUALLY AMONG THE CATEGORIES OF NECESSARY PUBLIC SERVICES
5 AUTHORIZED BY THIS SECTION.

6 L. A MORATORIUM SHALL NOT BE PLACED ON DEVELOPMENT FOR THE SOLE
7 PURPOSE OF AWAITING COMPLETION OF ALL OR ANY PART OF THE PROCESS NECESSARY TO
8 DEVELOP, ADOPT OR UPDATE DEVELOPMENT FEES.

9 M. IN ANY JUDICIAL ACTION INTERPRETING THIS SECTION, ALL POWERS
10 CONFERRED ON MUNICIPAL GOVERNMENTS IN THIS SECTION SHALL BE NARROWLY
11 CONSTRUED TO ENSURE THAT DEVELOPMENT FEES ARE NOT USED TO IMPOSE ON NEW
12 RESIDENTS A BURDEN ALL TAXPAYERS OF A MUNICIPALITY SHOULD BEAR EQUALLY.

13 ~~H.~~ N. Each municipality that assesses development fees shall submit
14 an annual report accounting for the collection and use of the fees FOR EACH
15 SERVICE AREA. The annual report shall include the following:

16 1. The amount assessed by the municipality for each type of
17 development fee.

18 2. The balance of each fund maintained for each type of development
19 fee assessed as of the beginning and end of the fiscal year.

20 3. The amount of interest or other earnings on the monies in each fund
21 as of the end of the fiscal year.

22 4. The amount of development fee monies used to repay:

23 (a) Bonds issued by the municipality to pay the cost of a capital
24 improvement project that is the subject of a development fee assessment,
25 INCLUDING THE AMOUNT NEEDED TO REPAY THE DEBT SERVICE OBLIGATIONS ON EACH
26 FACILITY FOR WHICH DEVELOPMENT FEES HAVE BEEN IDENTIFIED AS THE SOURCE OF
27 FUNDING AND THE TIME FRAMES IN WHICH THE DEBT SERVICE WILL BE REPAID.

28 (b) Monies advanced by the municipality from funds other than the
29 funds established for development fees in order to pay the cost of a capital
30 improvement project that is the subject of a development fee assessment, THE
31 TOTAL AMOUNT ADVANCED BY THE MUNICIPALITY FOR EACH FACILITY, THE SOURCE OF
32 THE MONIES ADVANCED AND THE TERMS UNDER WHICH THE MONIES WILL BE REPAID TO
33 THE MUNICIPALITY.

34 5. The amount of development fee monies spent on each capital
35 improvement project that is the subject of a development fee assessment and
36 the physical location of each capital improvement project.

37 6. The amount of development fee monies spent for each purpose other
38 than a capital improvement project that is the subject of a development fee
39 assessment.

40 ~~I.~~ O. Within ninety days following the end of each fiscal year, each
41 municipality shall submit a copy of the annual report to the city clerk AND
42 POST THE REPORT ON THE MUNICIPALITY'S WEBSITE OR THE WEBSITE OF AN
43 ASSOCIATION OF CITIES AND TOWNS IF THE MUNICIPALITY DOES NOT HAVE A WEBSITE.
44 Copies shall be made available to the public on request. The annual report
45 may contain financial information that has not been audited.

1 ~~P.~~ P. A municipality that fails to file the report AND POST THE
2 REPORT ON THE MUNICIPALITY'S WEBSITE OR THE WEBSITE OF AN ASSOCIATION OF
3 CITIES AND TOWNS IF THE MUNICIPALITY DOES NOT HAVE A WEBSITE AS required by
4 this section shall not collect development fees until the report is filed AND
5 POSTED.

6 ~~Q.~~ Q. Any action to collect a development fee shall be commenced
7 within two years after the obligation to pay the fee accrues.

8 R. A MUNICIPALITY MAY CONTINUE TO ASSESS A DEVELOPMENT FEE ADOPTED
9 BEFORE JANUARY 1, 2012 FOR ANY FACILITY THAT WAS FINANCED BEFORE JUNE 1, 2011
10 IF:

11 1. DEVELOPMENT FEES WERE PLEDGED TO REPAY DEBT SERVICE OBLIGATIONS
12 RELATED TO THE CONSTRUCTION OF THE FACILITY.

13 2. AFTER AUGUST 1, 2014, ANY DEVELOPMENT FEES COLLECTED UNDER THIS
14 SUBSECTION ARE USED SOLELY FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE
15 PORTION OF THE BONDS, NOTES OR OTHER DEBT SERVICE OBLIGATIONS ISSUED BEFORE
16 JUNE 1, 2011 TO FINANCE CONSTRUCTION OF THE FACILITY.

17 S. THROUGH AUGUST 1, 2014, A DEVELOPMENT FEE ADOPTED BEFORE JANUARY 1,
18 2012 MAY BE USED TO FINANCE CONSTRUCTION OF A FACILITY AND MAY BE PLEDGED TO
19 REPAY DEBT SERVICE OBLIGATIONS IF:

20 1. THE FACILITY THAT IS BEING FINANCED IS A FACILITY THAT IS DESCRIBED
21 UNDER SUBSECTION T, PARAGRAPH 5, SUBDIVISIONS (a) THROUGH (g) OF THIS
22 SECTION.

23 2. THE FACILITY WAS INCLUDED IN AN INFRASTRUCTURE IMPROVEMENTS PLAN
24 ADOPTED BEFORE JUNE 1, 2011.

25 3. THE DEVELOPMENT FEES ARE USED FOR THE PAYMENT OF PRINCIPAL AND
26 INTEREST ON THE PORTION OF THE BONDS, NOTES OR OTHER DEBT SERVICE OBLIGATIONS
27 ISSUED TO FINANCE CONSTRUCTION OF THE NECESSARY PUBLIC SERVICES OR FACILITY
28 EXPANSIONS IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENT PLAN.

29 ~~T.~~ T. For the purposes of this section:

30 1. "DEDICATION" MEANS THE ACTUAL CONVEYANCE DATE OR THE DATE AN
31 IMPROVEMENT, FACILITY OR REAL OR PERSONAL PROPERTY IS PLACED INTO SERVICE,
32 WHICHEVER OCCURS FIRST.

33 2. "DEVELOPMENT" MEANS:

34 (a) THE SUBDIVISION OF LAND.

35 (b) THE CONSTRUCTION, RECONSTRUCTION, CONVERSION, STRUCTURAL
36 ALTERATION, RELOCATION OR ENLARGEMENT OF ANY STRUCTURE THAT ADDS OR INCREASES
37 THE NUMBER OF SERVICE UNITS.

38 (c) ANY USE OR EXTENSION OF THE USE OF LAND THAT INCREASES THE NUMBER
39 OF SERVICE UNITS.

40 3. "FACILITY EXPANSION" MEANS THE EXPANSION OF THE CAPACITY OF AN
41 EXISTING FACILITY THAT SERVES THE SAME FUNCTION AS AN OTHERWISE NEW NECESSARY
42 PUBLIC SERVICE IN ORDER THAT THE EXISTING FACILITY MAY SERVE NEW DEVELOPMENT.
43 FACILITY EXPANSION DOES NOT INCLUDE THE REPAIR, MAINTENANCE, MODERNIZATION OR
44 EXPANSION OF AN EXISTING FACILITY TO BETTER SERVE EXISTING DEVELOPMENT.

1 ~~4.~~ 4. "Final approval" means:

2 (a) For a nonresidential or multifamily development, the approval of a
3 site plan or, if no site plan is submitted for the development, the approval
4 of a final subdivision plat.

5 (b) For a single family residential development, the approval of a
6 final subdivision plat.

7 5. "NECESSARY PUBLIC SERVICE" MEANS ANY OF THE FOLLOWING FACILITIES
8 THAT HAVE A LIFE EXPECTANCY OF THREE OR MORE YEARS AND THAT ARE OWNED AND
9 OPERATED BY OR ON BEHALF OF THE MUNICIPALITY:

10 (a) WATER FACILITIES, INCLUDING THE SUPPLY, TRANSPORTATION, TREATMENT,
11 PURIFICATION AND DISTRIBUTION OF WATER, AND ANY APPURTENANCES FOR THOSE
12 FACILITIES.

13 (b) WASTEWATER FACILITIES, INCLUDING COLLECTION, INTERCEPTION,
14 TRANSPORTATION, TREATMENT AND DISPOSAL OF WASTEWATER, AND ANY APPURTENANCES
15 FOR THOSE FACILITIES.

16 (c) STORM WATER, DRAINAGE AND FLOOD CONTROL FACILITIES, INCLUDING ANY
17 APPURTENANCES FOR THOSE FACILITIES.

18 (d) LIBRARY FACILITIES OF UP TO TEN THOUSAND SQUARE FEET THAT PROVIDE
19 A DIRECT BENEFIT TO DEVELOPMENT, NOT INCLUDING EQUIPMENT, VEHICLES OR
20 APPURTENANCES.

21 (e) STREET FACILITIES LOCATED IN THE SERVICE AREA, INCLUDING ARTERIAL
22 OR COLLECTOR STREETS OR ROADS THAT HAVE BEEN DESIGNATED ON AN OFFICIALLY
23 ADOPTED PLAN OF THE MUNICIPALITY, TRAFFIC SIGNALS AND RIGHTS-OF-WAY AND
24 IMPROVEMENTS THEREON.

25 (f) FIRE AND POLICE FACILITIES, INCLUDING ALL APPURTENANCES, EQUIPMENT
26 AND VEHICLES. FIRE AND POLICE FACILITIES DO NOT INCLUDE A FACILITY OR
27 PORTION OF A FACILITY THAT IS USED TO REPLACE SERVICES THAT WERE ONCE
28 PROVIDED ELSEWHERE IN THE MUNICIPALITY, VEHICLES AND EQUIPMENT USED TO
29 PROVIDE ADMINISTRATIVE SERVICES, HELICOPTERS OR AIRPLANES OR A FACILITY THAT
30 IS USED FOR TRAINING FIREFIGHTERS OR OFFICERS FROM MORE THAN ONE STATION OR
31 SUBSTATION.

32 (g) NEIGHBORHOOD PARKS AND RECREATIONAL FACILITIES ON REAL PROPERTY UP
33 TO THIRTY ACRES IN AREA, OR PARKS AND RECREATIONAL FACILITIES LARGER THAN
34 THIRTY ACRES IF THE FACILITIES PROVIDE A DIRECT BENEFIT TO THE DEVELOPMENT.
35 PARK AND RECREATIONAL FACILITIES DO NOT INCLUDE VEHICLES, EQUIPMENT OR THAT
36 PORTION OF ANY FACILITY THAT IS USED FOR AMUSEMENT PARKS, AQUARIUMS, AQUATIC
37 CENTERS, AUDITORIUMS, ARENAS, ARTS AND CULTURAL FACILITIES, BANDSTAND AND
38 ORCHESTRA FACILITIES, BATHHOUSES, BOATHOUSES, CLUBHOUSES, COMMUNITY CENTERS
39 GREATER THAN THREE THOUSAND SQUARE FEET IN FLOOR AREA, ENVIRONMENTAL
40 EDUCATION CENTERS, EQUESTRIAN FACILITIES, GOLF COURSE FACILITIES,
41 GREENHOUSES, LAKES, MUSEUMS, THEME PARKS, WATER RECLAMATION OR RIPARIAN
42 AREAS, WETLANDS, ZOO FACILITIES OR SIMILAR RECREATIONAL FACILITIES, BUT MAY
43 INCLUDE SWIMMING POOLS.

44 (h) ANY FACILITY THAT WAS FINANCED AND THAT MEETS ALL OF THE
45 REQUIREMENTS PRESCRIBED IN SUBSECTION R OF THIS SECTION.

1 ~~2-~~ 6. "Infrastructure improvements plan" means ~~one or more~~ A written
2 ~~plans that individually or collectively identify~~ PLAN THAT IDENTIFIES each
3 ~~public service~~ NECESSARY PUBLIC SERVICE OR FACILITY EXPANSION that is
4 proposed to be the subject of a development fee and otherwise complies with
5 the requirements of this section, and may be the municipality's capital
6 improvements plan.

7 7. "LAND USE ASSUMPTIONS" MEANS PROJECTIONS OF CHANGES IN LAND USES,
8 DENSITIES, INTENSITIES AND POPULATION FOR A SPECIFIED SERVICE AREA OVER A
9 PERIOD OF AT LEAST TEN YEARS AND PURSUANT TO THE GENERAL PLAN OF THE
10 MUNICIPALITY.

11 8. "QUALIFIED PROFESSIONAL" MEANS A PROFESSIONAL ENGINEER, SURVEYOR,
12 FINANCIAL ANALYST OR PLANNER PROVIDING SERVICES WITHIN THE SCOPE OF THE
13 PERSON'S LICENSE, EDUCATION OR EXPERIENCE.

14 9. "SERVICE AREA" MEANS ANY SPECIFIED AREA WITHIN THE BOUNDARIES OF A
15 MUNICIPALITY IN WHICH DEVELOPMENT WILL BE SERVED BY NECESSARY PUBLIC SERVICES
16 OR FACILITY EXPANSIONS AND WITHIN WHICH A SUBSTANTIAL NEXUS EXISTS BETWEEN
17 THE NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS AND THE DEVELOPMENT
18 BEING SERVED AS PRESCRIBED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

19 10. "SERVICE UNIT" MEANS A STANDARDIZED MEASURE OF CONSUMPTION, USE,
20 GENERATION OR DISCHARGE ATTRIBUTABLE TO AN INDIVIDUAL UNIT OF DEVELOPMENT
21 CALCULATED PURSUANT TO GENERALLY ACCEPTED ENGINEERING OR PLANNING STANDARDS
22 FOR A PARTICULAR CATEGORY OF NECESSARY PUBLIC SERVICES OR FACILITY
23 EXPANSIONS.

24 Sec. 2. Laws 2009, third special session, chapter 7, section 41, as
25 amended by Laws 2010, chapter 153, section 1, is amended to read:

26 Sec. 41. Development fees; moratorium; retroactivity

27 A. Notwithstanding any other law, beginning September 1, 2009 through
28 ~~June 30, 2012~~ DECEMBER 31, 2011, a municipality shall not:

29 1. Impose any new development fees pursuant to section 9-463.05,
30 Arizona Revised Statutes.

31 2. Increase any existing development fees authorized by section
32 9-463.05, Arizona Revised Statutes.

33 B. For the purposes of this section, the date of the imposition of a
34 new development fee or an increase in an existing development fee shall be
35 the date of the final action by the municipality's governing body if adopted
36 on or after March 1, 2009 and before September 1, 2009.

37 C. Notwithstanding subsection B of this section, any fees paid or
38 charged on and after June 29, 2009 until ~~the effective date of this act~~ JULY
39 29, 2010 shall not be retroactively increased.

40 D. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A
41 MUNICIPALITY FROM REDUCING THE DEVELOPMENT FEES ASSESSED ON DEVELOPMENT.

42 ~~D-~~ E. This section, as amended by ~~this act~~ LAWS 2010, CHAPTER 153,
43 SECTION 1, applies retroactively to from and after August 31, 2009.

