MARICOPA ASSOCIATION of GOVERNMENTS

Development Impact Fees

Best Practices Paper #3:
Growing Smarter Implementation Project

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1. Background

The MAG Regional Growing Smarter Implementation Project was conceived to assist local governments in the Metro Phoenix region in their general plan updates that were required by the recent "Growing Smarter" and "Growing Smarter Plus" legislative mandate. A part of that project is a series of ten "best practice" working papers. The technical advisory body to the GSI project is the MAG Planners Stakeholders Group. This is comprised of planners from every jurisdiction in Metropolitan Phoenix and from neighboring areas. Last October, this group selected ten planning issues for white papers that will be researched by MAG Associates. These will then be provided as resources to all participants.

One of the top ten issues selected by the Planners Stakeholders Group was a comparative survey of development impact fees. Most local governments assess development impact fees to finance capital facilities, and as there are many jurisdictions assessing fees independently it is useful to have a current fee comparison. Reasons cited during the planning department interviews include the following:

> Although Arizona Statute explicitly defines the authority for cities and counties to assess development impact fees, there is always the possibility that development impact fees will be subject to a legal challenge (founded or otherwise). There are some implied assurances in having fees and methodology that are somehow comparable to those in neighboring communities.
>
> Development impact fees change frequently. According to survey results, from one-quarter to one-third of the jurisdictions in this region are updating their fees in any given year. This means that any cross-jurisdictional fee comparison is likely to be out of date within months of completion.
>
> Different planning departments research and compare development impact fees, usually when they are planning an update to fees. This creates some duplication of effort. To date, there has been no agency that provides a regular update and comparison of Development impact fees.
>
> If all other factors were equal, when development impact fees are much higher or lower than in nearby jurisdictions, the result will be greater development pressures in those that have lower fees. This is complicated by our fragmented tax system, in which communities rely heavily on commercial uses as a revenue source. Competition for these high tax-generating uses may impact a community's willingness to assess fees to fund full recovery costs. Unless some other funding source is available, this can result in shortfalls in infrastructure funding and/or capacity.
>
> There are problems in the timing of park and school funding that often result in poorly sited facilities. It was asked if these problems could be remedied by Development impact fees, or by development impact fees combined with some other mechanism?
>
> There is currently no mechanism for assessing fees for locally approved development projects that have regional impacts. Several of the planners surveyed mentioned the Belmont and Anthem developments that were approved in the County. There was no

mechanism in place to assess the regional traffic impacts of these developments. This can result in ADOT being required to shift regional roadway construction priorities in the interest in public health and safety, jeopardizing the ability to effectively plan and implement regional construction projects. Alternately, regional facility capacity is exceeded and facilities operate at lower levels of service.

Similarly, there is no mechanism to pay for increased traffic in one jurisdiction when another locates a high traffic generator near the border.[1] Often these high traffic generators also generate high revenues, so there are cases where the approving jurisdiction reaps a windfall of benefits, leaving the neighboring jurisdiction to bear an unfair burden of costs. (There are at least two examples of intergovernmental agreements in this region that mitigate this situation. These are discussed in the subsequent paper on inter-jurisdictional collaborations.)

Definition of Development Impact Fees

What are development impact fees? Municipalities in Arizona and other states charge more than two-dozen different types of development-related fees. Most fall into three broad categories: (1) planning fees, which cover the administrative costs associated with reviewing requiring planning documents; (2) building permit, plan check, and inspection fees, which cover the costs of reviewing building permit and other site specific permit applications; and, (3) capital facilities fees, or development impact fees, which cover the up-front costs of providing capital infrastructure.

To understand how these various fees differ, think about the development process as having three stages. The first involves gaining land-use approvals. This is the stage covered by planning fees. The second stage involves getting various site preparation and architectural approvals to build one or more structures. This is the stage covered by building permit and plan check fees. The third stage involves connecting the structure to infrastructure systems and public services. This is the stage covered by development impact fees. Put yet another way, planning fees and building permit fees mostly cover on-site services and documents; capital facilities fees generally cover off-site improvements and services.

2. Authority for Development Impact Fees

2.1 General Authority

The authority for local governments to assess fiscal impact fees is granted at the state level and then tested and refined by federal and state court cases. At the core of these cases are interpretations of constitutional rights to private property. The federal constitution guarantees property owners the right to the use of their property. To deny all use is considered a taking, which the constitution does not allow. However, the courts have held that requiring some dedication by the property owner in the interest of public health and safety is permissible.

[1] Planning department interviews at the inception of the GSI project revealed that there are some communities that do not know how they will pay for street improvements that will be required as a result of planned development in neighboring jurisdictions. This will result in severe traffic congestion.

The two most specifically applicable of the Supreme Court Rulings are *Nollan v California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 114 S. Ct.2308 (1994). These established two overriding tenants for development impact fees; the rational nexus (that there must be a reasonable connection between the development and the benefit for which the fee is assessed), and rough proportionality (that the fee charged must be related both in nature and in extent to the burden of use generated by the development).

2.2 Arizona Statutes

In Arizona, state statutes specifically enabled municipal development impact fees in 1892. County fees were enabled only in 2000 as a component of the Growing Smarter legislation. This section contains an analysis of the municipal and county statutes. Excerpts that contain language from current statutes that rule how municipal and county fees can be assessed are attached as "Appendix B". (The complete statutes can be found on the Arizona State Legislature website at http://www.azleg.state.az.us/ars/ars.htm.)

2.3 Cities and Towns

Arizona municipal development impact fee statutes enable municipalities to assess development impact fees for a legitimate public purpose. They establish procedures that follow the constitutional requirements for development impact fees; that the fees are assessed for facilities that benefit the development; that money (including interest earned) be used only for the specified purposes; and that there is a reasonable relationship between the fee amount and the development. The statutes also include a statement that fees must be administered in a "non-discriminatory manner", which means that fees cannot be waived for some developments and not others. Local governments do have the ability to fund fees on behalf of a development from some other funding source, as long as this source does not include other development impact fees.

It should be noted that schools are absent from the public purpose uses that the development impact fee statutes permit. This is a problem because, under our current school funding system, school districts in many emerging areas operate at levels above facility capacity because the funds for school facilities are received years after the students arrive. Arizona is one of the few states that do not enable school facility impact fees. This is less of a problem in eastern American Cities where there is typically only one school district at the city or county level.) For the past decade, bills to allow school districts to charge development impact fees have been introduced each year at the Arizona Legislature. These have all failed. The bill that has been introduced during the current session is attached as "Appendix C."

In the mid 1990's school districts within the Town of Apache Junction faced a severe crisis in funding facilities to accommodate new students. The Town recognized schools as a public purpose that involved the entire community and thus involved the town. After projecting school needs to build-out, calculating offsets from other funding sources and determining the use generated by one dwelling unit the Town began to charge development impact fees for new schools. The Town was subsequently sued by the Central Arizona Homebuilders Association, which prevailed. The court determined that schools are not a public purpose for local governments in Arizona because it is school districts, not Towns, which construct and own school facilities. Apache Junction paid back more than $1 million in fees that it had collected for schools.

In the period between the inception of Apache Junction school development impact fees and when they were overturned, several communities were having consultants study development impact fees for schools in hopes that Apache Junction would prevail.

As long as school development impact fees continue to fail to be adopted as legislation, the adequate public facilities ordinance that is used by Queen Creek, Buckeye and Glendale and the town, school district and developer compact that is used by Goodyear, Avondale, and Litchfield Park will remain the means that communities are using to ensure adequate school facilities. (For more detail, see GSI Working Paper #1.)

2.4 Counties

Counties have had development impact fee authority only since 1999, when they were included in the Growing Smarter legislative package.[2] When there is a capital improvement program in place, counties can now charge development impact fees for water, sewer, streets, parks and public safety facilities. Although counties provide some of these facilities, they do not generally provide water and wastewater facilities or construct streets to urban standards. These services are especially important to jurisdictions with newly emerging development areas, as they are necessary for development and extending them is costly. To a large extent, the availability of these facilities determines where development can occur.

Counties have the authority to enter into an intergovernmental agreement with a local government that defines a joint benefit area.[3] Conceivably, the other community could provide the facilities and the county could pay for the share used on the county with development impact fee revenues. Three factors may make this untenable in most circumstances:

> Cities and towns generally do not want development to occur in the adjacent county, and would be reluctant to enable such development by providing it with capital facilities. This would be of special significance in the case of commercial development, which would add to local traffic without adding corresponding sales tax revenues to the local coffers.
>
> Counties do not have the authority to assess sales taxes, which typically fund anywhere from 30 to 80 percent of a municipal operating budget. After construction of facilities, these funds are required to operate and maintain them. Municipalities may be reluctant to enter a joint benefit are agreement unless the county could somehow assure that it would pay their proportionate share of joint service costs in perpetuity.
>
> There may be reluctance by counties to assess fees if they are hitting their spending limits. (This is the case in Maricopa County.) These can only be raised by a vote of the people.

[2] ARS 11-1102
[3] ARS 11-1103

Historically, publicly increasing spending or raising taxes has been politically unpopular in Arizona.

3. Comparative Development Impact Fees

3.1 Impact Fees in Metro Phoenix

The comparative fee research was conducted from June 2001 to January 2002. All metropolitan Phoenix jurisdictions were e-mailed a survey (attached as "Appendix A"). Survey questions were based on questions posed during the planning department interviews at the inception of the GSI Project.

Most of the local governments in this region levy development impact fees. The revenues are used to fund a variety of local facilities. Municipal fee levels vary widely in the region. For example, a single family home is assessed a fee ranging from $12,680 to $0 per unit, depending on the jurisdiction, building envelope and house size. This is largely due to varying levels of infrastructure already in place, variation in financing mechanisms used for different facilities and variations in level of service (LOS) standards.

The specific impact fees that different communities charge for single-family, multifamily, retail, office and industrial development are shown in the series of tables starting on page 7. On average, Maricopa County municipalities have development impact fees of $5,538 per 1,000 square feet for single-family residential, $3,618 for multifamily residential, $3,338 for retail, $2,038 for office and $1,469 for industrial.

It would be a mistake to consider these tables comparing development impact fees as a comparison of the relative building costs in different jurisdictions.

> Infrastructure is required to serve new development. If development impact fees do not pay the costs, they are paid for in some other way. If the fiscal impacts of new development are not paid at the time of approval (as in development exactions or fees) than they are either paid at a later stage of the development cycle (as in taxes) or infrastructure exceeds capacity and community standards and quality of life are compromised.
>
> Communities use different mechanisms to fund infrastructure. These can include various combinations of funding, including bonds, exactions, community facilities districts, exactions, excise taxes.
>
> There is a tendency for developed areas to have lower fees and higher land costs. Conversely, there is a tendency for newly developing areas to have higher fees and lower land costs. (A notable class of exceptions is in some redevelopment areas. An example is in Tempe, where water and wastewater facilities are being expanded in developed areas to accommodate new industrial development.)

Single Family Development Impact Fees in Maricopa County Muncipalities

	Library	Parks Open Space	Sanitation	Water Systems Dev.	Water Resource Dev.	Water ODF	Reclaimed Water Dev.	Waste Water Trunk	Waste Water Dev.	Waste Water ODF	Trans.	Police	Fire & EMS	General	City Total
Apache Junction	$199	$366	$0	$0	$0	0	$0	$0	$0	$0	$270	$118		$53	**$1,006**
Avondale	$300	$300	$200	$750	$750	$450	$0	$300	$1,900	$300	$400	$145	$250	$500	**$6,545**
Buckeye	$0	$0	$0	$1,331	$0	$0	$0	$0	$3,252	$0	$0	$0	$379	$0	**$4,962**
Carefree (7)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	**N/A**
Cave Creek	$0	$300	$0	$0	$0	$0	$0	$0	$1,635	$0	$250	$0	$0	$760	**$2,945**
Chandler (13)	$68	$680	$0	$1,479	$673	$600	$878	$0	$1,168	$600	$1,537	$159	$105	$231	**$8,178**
Fountain Hills	$0	$2,129	$0	$0	$0	$0	$0	$0	$0	$0	$638	$71	$0	$437	**$3,275**
Gilbert	$0	$945	$0	$2,176	$300	$0	$0	$0	$0	$2,452	$148	$362	$206	$357	**$6,946**
Glendale	$452	$1,094	$264	$1,367	$0	$1,140	$0	$0	$2,003	$1,238	$542	$289	$311	$660	**$9,360**
Goodyear	$0	$57	$150	$1,200	$1,755	$0	$0	$0	$1,134	$0	$148	$123	$211	$118	**$4,896**
Litchfield Park (6)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	**$0**
Mesa	$378	$696	100*	$907	$0	$0	$0	$0	$1,059	$0	$0	$226	$145	$128	**$3,539**
Peoria North	$294	$1,361	$0	$3,237	$558	$227	$0	$0	$1,996	$0	$4,028	$186	$275	$518	**$12,680**
Peoria South	$294	$1,361	$0	$3,237	$558	$227	$0	$0	$1,996	$0	$356	$186	$275	$518	**$9,008**
Phoenix High (N. Black Canyc	$342	$2,872	$134	$2,647	$633	$600	$0	$0	$1,308	$600	$2,700	$88	$160	$76	**$12,160**
Phoenix Low (Ahwatukee)	$314	$882	$0	$204	$426	$600	$0	$0	$87	$600	$0	$100	$161	$96	**$3,470**
Queen Creek	$616	$3,229	$0	$0	$0	$0	$0	$0	$2,679	$0	$0	$185	see (9)	$600	**$7,309**
Scottsdale South (17)	$0	$0	$0	$293	$484	$0	$0	$0	$1,123	$0	$0	$0	see (9)	$0	**$1,900**
Scottsdale North (17)	$0	$0	$0	$2,214	$580	$0	$0	$0	$2,668	$0	$0	$0	see (9)	$0	**$5,462**
Surprise (12)	$1,356	*	$524	$1,770	$824	$0	$0	$0	$1,916	$0	$0	$0	see (16)	$878	**$7,268**
Tempe	$0	0	$0	$0	$0	$875	$0	$0	$930	$0	$0	$0	see (16)	470	**$2,275**
Tolleson	$0	$0	$0	$900	$0	$0	$0	$0	$574	$0	$644	$287	$347	$362	**$3,114**

Assumptions
(1) Where water and wastewater fees are based on meter size, a .75 inch meter has been assumed for single family
(2) Multi family per unit fees are based on a 200 unit building with 9 2 inch meters.
(3) Avondale, Goodyear and Litchfield Park assure school adequacy through the Southwest Cities, Schools and Developers Partnership.
(4) Queen Creek and Buckeye include schools in adaquate public facilities ordinance.
(5) In Carefree, Apache Junction and Fountian Hills water and/or wastewater services are provided by a private companies.
(6) In Litchfield Park, infrastructure is negotiated by development agreement.
(7) Carefree does not assess infrastructure fees. Water and Wastewater service are privately contracted.
(8) Tempe assesses only water and wastewater occupational development fees.
(9) In Queen Creek and Scottsdale fire and EMS service are privately contracted.
(10) Phoenix equipment repair fees have been placed in the general government category.
(11) Surprise combines - police, fire and EMS into one fee, Waste Water is for the North Zone
(12) Surprise combines parks, recreation and library in a single fee, which has been listed under "library." Similarly "public works" category is under "sanitation."
(13) Chandler - Transportation and Water Resource are area specific.
(14) Peoria - Waste water and Transportation are area specific (average used in this table). Water resource fee in off project only.
(15) Phoenix - See page 2 for breakout by area & attached detail pages for Phoenix. Maps to be provided with full report.
(16) These jurisdictions contract for fire and EMS service.
(17) The City of Scottsdale bases residential fees on building envelope size for single family and square footage per unit for multifamily.
The numbers depict a density of 5 DU/AC single-family and 1,500 SG for multi-family. (For more detail please see attachment.)

Multifamily Development Impact Fees in Maricopa County Muncipalities

	Library	Parks Open Space	Sanitation	Water Systems Dev.	Water Resource Dev.	Water ODF	Reclaimed Water Dev.	Waste Water Trunk	Waste Water Dev.	Waste Water ODF	Trans.	Police	Fire & EMS	General	City Total
Apache Junction	$191	$352	$0	$0	$0	$0	$0	$0	$0	$0	$183	$114		$51	**$791**
Avondale	$253	$300	$300	$750	$750	$40	$0	$300	$451	$300	$276	$123	$211	$423	**$4,477**
Buckeye	$0	$0	$0	$317	$0	$0	$0	$0	$776	$0	$0	$0	$344	$0	**$1,437**
Carefree (7)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	**N/A**
Cave Creek	$0	$300	$0	$0	$0	$0	$0	$0	$1,635	$0	$250	$0	$0	$760	**$2,945**
Chandler (13)	$57	$391	$0	$1,018	$424	$360	$651	$0	$865	$360	$1,010	$159	$105	$231	**$5,631**
Fountain Hills	$0	$2,129	$0	$0	$0	$0	$0	$0	$0	$0	$341	$71	$0	$437	**$2,978**
Gilbert	$0	$813	$0	$1,260	$188	$0	$0	$0	$0	$1,868	$105	$362	$206	$357	**$5,159**
Glendale	$327	$793	$49	$524	$0	$608	$0	$0	$1,370	pr	$329	$209	$225	$478	**$4,912**
Goodyear	$0	$52	$138	$1,200	$1,755	$0	$0	$0	$1,134	$0	$102	$113	$211	$109	**$4,814**
Litchfield Park (6)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	**$0**
Mesa	$268	$494	25*	$644	$0	$0	$0	$0	$752	$0	$0	$160	$106	$91	**$2,515**
Peoria North	$194	$859	$0				$0	$0		$0	$3,195	$118	$174	$328	**$4,868**
Peoria South	$194	$859	$0				$0	$0		$0	$1,253	$118	$174	$328	**$2,926**
Phoenix High (N. Black Canyon)	$135	$1,044	$0	$0	$380	$360	$0	$0	$534	$360	$1,863	$38	$126	$33	**$4,873**
Phoenix Low (Ahwatukee)	$142	$327	$0	$0	$256	$360	$0	$0	$0	$360	$0	$43	$126	$41	**$1,655**
Queen Creek	$607	$3,182	$0	$0	$0	$0	$0	$0	$636	$0	$0	$182	see (9)	$591	**$5,198**
Scottsdale South (17)	$0	$0	$0	$2,214	$580	$0	$0	$0	$2,668	$0	$0	$0	see (9)	$0	**$5,462**
Scottsdale North (17)	$1,356	*	$524	$1,770	$824	$0	$0	$0	$1,916	$0	$0	$0	see (16)	$878	**$7,268**
Surprise (12)	$956	*	$369	$196	$824	$0	$0	$0	$1,593	$0	$0	$0	see (16)	$249	**$4,187**
Tempe	$0	$0	$0	$0	$0	$875	$0	$0	$930	$0	$0	$0	see (16)	$470	**$2,275**
Tolleson	$0	$0	$0	$137	$0	$0	$0	$0	$132	$0	$446	$255	$307	$321	**$1,599**

Assumptions

(1) Where water and wastewater fees are based on meter size, a .75 inch meter has been assumed for single family

(2) Multi family per unit fees are based on a 200 unit building with 9 2 inch meters.

(3) Avondale, Goodyear and Litchfield Park assure school adequacy through the Southwest Cities, Schools and Developers Partnership.

(4) Queen Creek and Buckeye include schools in adaquate public facilities ordinance.

(5) In Carefree, Apache Junction and Fountian Hills water and/or wastewater services are provided by a private companies.

(6) In Litchfield Park, infrastructure is negotiated by development agreement.

(7) Carefree does not assess infrastructure fees. Water and Wastewater service are privately contracted.

(8) Tempe assesses only water and wastewater occupational development fees.

(9) In Queen Creek and Scottsdale fire and EMS service are privately contracted.

(10) Phoenix equipment repair fees have been placed in the general government category.

(11) Surprise combines - police, fire and EMS into one fee, Waste Water is for the North Zone

(12) Surprise combines parks, recreation and library in a single fee, which has been listed under "library." Similarly "public works" category is under "sanitation."

(13) Chandler - Transportation and Water Resource are area specific.

(14) Peoria - Waste water and Transportation are area specific (average used in this table). Water resource fee in off project only.

(15) Phoenix - See page 2 for breakout by area & attached detail pages for Phoenix. Maps to be provided with full report.

(16) These jurisdictions contract for fire and EMS service.

(17) The City of Scottsdale bases residential fees on building envelope size for single family and square footage per unit for multifamily.
The numbers depict a density of 5 DU/AC single-family and 1,500 SG for multi-family. (For more detail please see attachment.)

Retail Development Impact Fees In Maricopa County Municipalities

	Library	Open Space & Parks	Sanita-tion	Water Systems Dev.	Water Resource Dev. (11)	Water ODF	Reclaimed Water Dev.	Waste Water Dev. (7, 10)	Waste Water ODF	Streets	Police	Fire & EMS (3)	General Govern-ment (1)	TOTAL
Apache Junction (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$846	$364	$0	$164	$1,374
Avondale	$0	$0	$85	$88	$225	$0	$0	$378	$0	$1,879	$424	$189	$237	$3,505
Buckeye	$0	$0	$0	$0	$0	$191	$0	$0	$464	$0	$0	$224	$0	$879
Carefree (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	N/A
Cave Creek	$0	$300	$0	$0	$0	$0	$0	$1,635	$0	$250	$0	$0	$760	$2,945
Chandler	$0	$0	$0	$315	see note 12	$0	$187	$248	$0	$3,880	$50	$30	$70	$4,780
Fountain Hills (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$2,020	$50	$0	$280	$2,350
Gilbert	$0	$0	$0	$309	$41	$309	$0	$348	$0	550	$190	$110	$190	$2,049
Gilbert Offset (8)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$275	$95	$55	$0	$425
Glendale	$0	$0	$66	$152	$0	$0	$520	$165	$819	$1,935	$634	$183	$528	$5,002
Goodyear	$0	$0	$125	0	$250	$240	$0		$227	$418	$408	$348	$94	$2,110
Mesa	$0	$0	$0	$0	$0	$193	$0	$0	$226	$0	$660	$423	$0	$1,502
Peoria North	$0	$0	$0		$79	$13	$0	$274		$16,645	$999	$221	$417	$18,648
Peoria South	$0	$0	$0	$445	67	$13	$0	$508		$1,472	$999	$221	$417	$4,142
Phoenix High	$17	$304	$51		$36	$45	$0	$36	$45	$5,508	$55	$73	$78	$5,927
Phoenix Low	$20	$26	$34	$0	$0	$45	$0	$45	$45	$0	$62	$74	$98	$403
Queen Creek (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$75	$0	$442	$517
Scottsdale Average	$0	$0	$0	See note 9	See note 9	$0	$0	See note 9	$0	$0	$0	$0	$0	$5,549
Surprise	$0	$0	$0	$252	$117	$0	$0	$305(5)	$0	$0	*	$762 (3)	$660	$1,029
Tempe	$0	$0	$0	$169	$0	$110	$0	$184	$0	$0	$0	$0	$0	$462
Tolleson	$0	$0	$0	$0	$0	$0	$0	$0	$0	$2,182	$492	$216	$272	$3,162

(1) Where water or wastewater system fees are based on meter size, a 3 inch turbine meter in a 75,000 square foot building has been assumed.
To get the cost per 1,000 square feet, the cost of the meter is divided by 75.
(2) Some communities define separate categories for public works and general government. There is some overlap in the descriptions for these, so they have been combined under "General Government"
(3) The Town of Surprise combines the fee for police and fire protection. Therefore, the police fee is included under "Fire and EMS".
(4)Carefree does not currently charge fiscal impact fees, though they are being considered. Water and wastewater are privately contracted.
(5) Surprise sewer fees are assessed in the south zone only.
(6) Water and wastewater fees are privately contracted in Carefree, Apache Junction, Queen Creek and Fountain Hills.
(7) Chandler Wastewater Trunk lines have been included in the wastewater system development fee.
(8) The Town of Gilbert pays an economic development offset for some nonresidential fees.
(9) Scottsdale assesses only water and was ater and wastewater fees. These are based on water usage (see attached table for detailed breakout.
(10) Peoria wastewater fees are calculated based on the specifics of the facility .
The unit cost can be calculated in relation to a per unit fee of $1966 per 300 gallons per day.
(11) Peoria water resource fees are assessed for "off project" areas only.

Office Development Impact Fees In Maricopa County Municipalities

	Library	Open Space & Parks	Sanita-tion	Water Systems Dev.	Water Resource Dev. (11)	Water ODF	Reclaimed Water Dev.	Waste Water Dev. (7, 10)	Waste Water ODF	Streets	Police	Fire & EMS (3)	General Govern-ment (1)	TOTAL
Apache Junction (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$469	$230	$0	$103	$802
Avondale	$0	$0	$85	$88	$225	$0	$0	$378	$0	$732	$164	$270	$339	$2,281
Buckeye	$0	$0	$0	$0	$0	$191	$0	$0	$464	$0	$0	$390	$0	$1,045
Carefree (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Cave Creek	$0	$300	$0	$0	$0	$0	$0	$1,635	$0	$250	$0	$0	$760	$2,945
Chandler	$0	$0	$0	$315	see note 12	$0	$187	$248	$0	$2,260	$50	$30	$70	$3,160
Fountain Hills (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$580	$50	$0	$280	$910
Gilbert	$0	$0	$0	$309	$41	$309	$0	$348	$0	$200	$190	$110	$190	$1,699
Gilbert Offset (8)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$150	$143	$83	$0	$375
Glendale	$0	$0	$100	$152	$0	$0	$371	$165	$588	$1,440	$472	$278	$801	$4,367
Goodyear	$0	$0	$178	0	$250	$240	$0		$227	$168	$164	$567	$135	$1,929
Mesa	$0	$0	$0	$0	$0	$193	$0	$0	$226	$0	$341	$219	$0	$979
Peoria North	$0	$0	$0	$445	67	$13	$0	See note 10		$5,586	$335	$316	$595	$7,357
Peoria South	$0	$0	$0	$445	67	$13	$0	See note 10		$494	$335	$316	$595	$2,265
Phoenix High	$32	$432	$68		$52	$60	$0	$52	$60	$4,266	$53	$64	$64	$4,739
Phoenix Low	$36	$54	$45	$4	$0	$60	$0	$60	$60	$0	$60	$64	$82	$435
Queen Creek (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$17	$0	$632	$649
Scottsdale Average	$0	$0	$0	See note 9	See note 9	$0	$0	See note 9	$0	$0	$0	$0	$0	$3,329
Surprise	$0	$0	$0	$252	$117	$0	$0	$305(5)	$0	$0	*	$839 (3)	$1,062	$1,431
Tempe	$0	$0	$0	$169	$0	$110	$0	$184	$0	$0	$0	$0	$0	$463
Tolleson	$0	$0	$0	$0	$0	$0	$0	$0	$0	$732	$164	$270	$339	$1,505

(1) Where water or wastewater system fees are based on meter size, a 3 inch turbine meter in a 75,000 square foot building has been assumed. To get the cost per 1,000 square feet, the cost of the meter is divided by 75.
(2) Some communities define separate categories for public works and general government. There is some overlap in the descriptions for these, so they have been combined under "General Government"
(3) The Town of Surprise combines the fee for police and fire protection. Therefore, the police fee is included under "Fire and EMS".
(4)Carefree does not currently charge fiscal impact fees, though they are being considered. Water and wastewater are privately contracted.
(5) Surprise sewer fees are assessed in the south zone only.
(6) Water and wastewater fees are privately contracted in Carefree, Apache Junction, Queen Creek and Fountain Hills.
(7) Chandler Wastewater Trunk lines have been included in the wastewater system development fee.
(8) The Town of Gilbert pays an economic development offset for some nonresidential fees.
(9) Scottsdale assesses only water and wastewater fees. These are based on the amount of water used. (See Scottsdale Table for breakout.)
(10) Peoria wastewater fees are calculated ater and wastewater fees. These are based on water usage (see attached table for detailed breakout. The unit cost can be calculated in relation to a per unit fee of $1966 per 300 gallons per day.
(11) Peoria water resource fees are assessed for "off project" areas only.

Industrial Development Impact Fees In Maricopa County Municipalities

	Library	Open Space & Parks	Sanita-tion	Water Systems Dev.	Water Resource Dev. (11)	Water ODF	Reclaimed Water Dev.	Waste Water Dev. (7, 10)	Waste Water ODF	Streets	Police	Fire & EMS (3)	General Govern-ment (1)	TOTAL
Apache Junction (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$197	$130	$0	$58	$385
Avondale	$0	$0	$85	$88	$225	$0	$0	$378	$0	$384	$86	$174	$220	$1,640
Buckeye	$0	$0	$0	$0	$0	$191	$0	$0	$464	$0	$0	$271	$0	$926
Carefree (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	N/A
Cave Creek	$0	$300	$0	$0	$0	$0	$0	$1,635	$0	$250	$0	$0	$760	$2,945
Chandler	$0	$0	$0	$315	see note 12	$0	$187	$248	$0	$1,630	$50	$30	$70	$2,530
Fountain Hills (5)	$0	$0	$0	$0	$0	0	$0	$0	0	$580	$50	$0	$280	$910
Gilbert	$0	$0	$0	$309	$41	$309	$0	$348	$0	$140	$190	$110	$190	$1,639
Gilbert Offset (8)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$105	$47	$83	$0	$235
Glendale	$0	$0	$47	$152	$0	$0	$323	$165	$514	$398	$130	$133	$385	$2,247
Goodyear	$0	$0	$91	0	$250	$240	$0		$227	$48	$107	$21	$68	$1,052
Mesa	$0	$0	$0	$0	$0	$193	$0	$0	$226	$0	$228	$146	$0	$793
Peoria North	$0	$0	$0	$445	67	$13	$0	See note 10		$2,934	$176	$204	$385	$4,224
Peoria South	$0	$0	$0	$445	67	$13	$0	See note 10		$259	$176	$204	$385	$1,549
Phoenix High	$16	$248	$148		$0	$216	$0	$6	$216	$552	$57	$87	$28	$1,310
Phoenix Low	$18	$29	$99	$0	$0	$216	$0	$216	$216	$0	$64	$88	$36	$935
Queen Creek (5)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$20	$0	$322	$342
Scottsdale Average	$0	$0	$0	See note 9	See note 9	$0	$0	See note 9	$0	$0	$0	$0	$0	$3,329
Surprise	$0	$0	$0	$252	$117	$0	$0	$305(5)	$0	$0	*	$483 (3)	$687	$1,056
Tempe	$0	$0	$0	$169	$0	$110	$0	$184	$0	$0	$0	$0	$0	$462
Tolleson	$0	$0	$0	$0	$0	$0	$0	$0	$0	$384	$86	$174	$220	$864

(1) Where water or wastewater system fees are based on meter size, a 3 inch turbine meter in a 75,000 square foot building has been assumed. To get the cost per 1,000 square feet, the cost of the meter is divided by 75.

(2) Some communities define separate categories for public works and general government. There is some overlap in the descriptions for these, so they have been combined under "General Government"

(3) The Town of Surprise combines the fee for police and fire protection. Therefore, the police fee is included under "Fire and EMS".

(4)Carefree does not currently charge fiscal impact fees, though they are being considered. Water and wastewater are privately contracted.

(5) Surprise sewer fees are assessed in the south zone only.

(6) Water and wastewater fees are privately contracted in Carefree, Apache Junction, Queen Creek and Fountain Hills.

(7) Chandler Wastewater Trunk lines have been included in the wastewater system development fee.

(8) The Town of Gilbert pays an economic development offset for some nonresidential fees.

(9) Scottsdale assesses only water and wastewater fees. These are based on the amount of water used. (See Scottsdale Table for breakout.)

(10) Peoria wastewater fees are calculated ater and wastewater fees. These are based on water usage (see attached table for detailed breakout. The unit cost can be calculated in relation to a per unit fee of $1966 per 300 gallons per day.

(11) Peoria water resource fees are assessed for "off project" areas only.

Phoenix - Impact Fee Detail	Impact Fee/Unit	Dev. Occ & Water Res. Acq. Fee /Unit	Total
1 Ahwatukee (E of 19th Ave)	$388	$900	**$1,288**
2 Ahwatukee (W of 19th Ave.)	$388	$900	**$1,288**
3 Deer Valley-W of I17	$3,342	$988	**$4,330**
4 Deer Valley	$3,330	$988	**$4,318**
5 Deer Valley (Deem Hills to I-17)	$3,337	$988	**$4,325**
6 Deer Valley - E of I-17	$3,331	$988	**$4,319**
7 Deer Valley - N of Cap	$3,340	$900	**$4,240**
8 Desert View (North)	$3,935	$988	**$4,923**
9 Desert View (South)	$3,860	$900	**$4,760**
10 Estrella - Val Vista	$1,753	$742	**$2,495**
11 Estrella N of Durango	$1,752	$742	**$2,494**
12 Estrella S of Durango	$1,579	$742	**$2,321**
13 Laveen - Val Vista	$1,781	$742	**$2,523**
14 Laveen (West)	$1,785	$742	**$2,527**
15 North Gateway	$3,047	$742	**$3,789**
16 North Gateway (North)	$3,974	$988	**$4,962**

Peoria - Impact Fee Detail		
Waste Water Development Fee		
	MF	SF
Area A	$623	$1,094
Area B	$646	$1,133
Area C	$918	$1,612
Area D	$1,016	$1,784
Area E	$917	$1,609
Area F	$1,322	$2,320
Transportation Fee		
	MF	SF
South	$226	$326
Central	$561	$810
North	$2,807	$4,052

Scottsdale - Impact Fee Detail

SINGLE FAMILY

Lot Building Envelope (S.F.) Min.	Max.	Zone A Water System	Zone A Water Resources	Zone A Sewer System	Zone A Total Fees	Zones B-E Water System	Zones B-E Water Resources	Zones B-E Sewer System	Zones B-E Total Fees
2,500	3,999	$155	$255	$937	**$1,347**	$1,181	$309	$2,228	**$3,718**
4,000	5,499	$238	$392	$937	**$1,567**	$1,818	$476	$2,228	**$4,522**
5,500	6,999	$266	$438	$1,123	**$1,827**	$2,016	$528	$2,668	**$5,212**
7,000	8,499	$293	$484	$1,123	**$1,900**	$2,214	$580	$2,668	**$5,462**
8,500	11,799	$321	$530	$1,123	**$1,974**	$2,413	$631	$2,668	**$5,712**
11,800	17,299	$436	$720	$1,288	**$2,444**	$3,274	$857	$3,060	**$7,191**
17,300	22,799	$552	$910	$1,288	**$2,750**	$4,136	$1,082	$3,060	**$8,278**
22,800	43,559	$667	$1,100	$1,380	**$3,147**	$4,997	$1,308	$3,280	**$9,585**
43,560	87,119	$848	$1,399	$1,380	**$3,627**	$6,200	$1,623	$3,280	**$11,103**
87,120	130,679	$1,030	$1,698	$1,421	**$4,149**	$7,403	$1,938	$3,378	**$12,719**
130,680	174,239	$1,211	$1,998	$1,421	**$4,630**	$8,606	$2,252	$3,378	**$14,236**
174,240	217,799	$1,557	$2,568	$1,421	**$5,546**	$11,065	$2,896	$3,378	**$17,339**
217,800	>	*	**	$1,421		***	****	$3,378	**NA**

* $1,557 plus $7.95 per 1,000 sq.ft. > 217,800
** $2,568 plus $13.10 per 1,000 sq.ft. > 217,800
*** $11,065 plus $56.45 per 1,000 sq.ft. > 217,800
**** $2,896 plus $14.77 per 1,000 sq.ft. > 217,800

MULTIFAMILY

Avg. Density per D.U. (Sq. Ft.) Min.	Max.	Zone A Water System	Zone A Water Resources	Zone A Sewer System	Zone A Total Fees	Zones B-E Water System	Zones B-E Water Resources	Zones B-E Sewer System	Zones B-E Total Fees
815	1,569	$161	$266	$937	**$1,364**	$1,384	$362	$2,228	**$3,974**
1,570	2,339	$167	$276	$937	**$1,380**	$1,434	$375	$2,228	**$4,037**
2,340	3,109	$179	$295	$937	**$1,411**	$1,537	$402	$2,228	**$4,167**
3,110	3,869	$188	$310	$937	**$1,435**	$1,602	$419	$2,228	**$4,249**
3,870	4,639	$197	$324	$937	**$1,458**	$1,640	$429	$2,228	**$4,297**
4,640	5,399	$208	$344	$937	**$1,489**	$1,691	$443	$2,228	**$4,362**
5,400	6,169	$220	$363	$1,123	**$1,706**	$1,742	$456	$2,668	**$4,866**
6,170	6,939	$229	$378	$1,123	**$1,730**	$1,780	$466	$2,668	**$4,914**
6,940	7,699	$238	$392	$1,123	**$1,753**	$1,824	$477	$2,668	**$4,969**
7,700	8,469	$248	$410	$1,123	**$1,781**	$1,892	$495	$2,668	**$5,055**
8,470	>	$254	$418	$1,123	**$1,795**	$1,929	$505	$2,668	**$5,102**

Some communities prefer to negotiate during the development approval process for developer funded or provided infrastructure.[4] These are put in place by development agreement. (A development agreement recently negotiated in Goodyear included both capital facilities and early service costs.) These facilities may or may not be included in a development impact fee program. When they are included, offsets are provided up to the amount that the fee that would have been. These offsets are not possible for costs in excess of the development impact fee or for amenities that are not included in the development impact fee program.

As required by statute, all fee programs that were studied for this report provide some offset for the proportion of facilities included in the development impact fee program that are be paid for by as property taxes, municipal improvement bonds, community facilities districts, and/or excise taxes.

3.2 Metro Phoenix Impact Fees Compared to Other Regions

There are few comparative studies of impact fees from one state to another, because local impact fees are so community-specific that the data collection effort to reconcile differences for comparative purposes is so great – an "apples-to-apples" approach does not exist in the literature across individual studies. Nonetheless, there are two comparison points by which to judge Metro Phoenix impact fees from an order-of-magnitude perspective.

The first is a study by the University of Florida, which surveyed more than 100 jurisdictions across the country about the most common capital facilities funded in part through development impact fees[5]. As shown in the table on the next page, MAG member agencies have lower development impact fees than the national sample, especially for nonresidential development. Regarding single-family impact fees, this is caused in part by the legal prohibition of school impact fees.

Generally, metro Phoenix municipalities have higher impact fees for residential water, wastewater, parks and public safety. *Surprisingly, metro Phoenix municipalities have lower average impact fees for transportation than the national average – nearly $600 lower per 1,000 square feet.*

Regarding nonresidential impact fees, MAG region municipalities, have much lower average impact fees for each category – retail, office, and industrial – than the national sample average. The sole category for which metro Phoenix is higher is for parks.

The second study is based on unpublished data from the State of Maryland, which collected year 2000 development impact fee information for 95 municipalities and counties across the United States[6]. Including the metro Phoenix municipalities surveyed in this report, the national

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[4] These negotiations are important to many communities, and were frequently cited as a reason to forego the use of an adequate public facilities ordinance. In jurisdictions that have more stringent design standards, such as Queen Creek, planners report that this same spirit of negotiation can be achieved over aesthetic standards.

[5] In comparison to the MAG survey, the Florida study does not include library, sanitation, and general government.

[6] California, Colorado, Florida, Georgia, Illinois, Iowa, Kentucky, Maryland, Montana, North Caroline, New Mexico, Nevada, Oregon, South Carolina, and Tennessee.

National and Metro Phoenix Average Impact Fees, 2000

	Single Family (per unit)		Retail (per 1000 sq. ft.)		Office (per 1000 sq. ft.)		Industrial (per 1000 sq. ft.)	
	National Sample	Metro Phoenix	National Sample	Metro Phoenix	National Sample	Metro Phoenix	National Sample	Metro Phoenix
Water	$ 2,189	$ 3,099	$ 765	$ 228	$ 961	$ 241	$ 487	$ 251
Wastewater	$ 1,956	$ 2,892	$ 825	$ 815	$ 809	$ 304	$ 522	$ 321
Road	$ 1,535	$ 981	$ 3,116	$ 1,803	$ 1,792	$ 825	$ 881	$ 374
Park	$ 1,218	$ 1,434	$ -	$ 30	$ -	$ 37	$ -	$ 27
Public Safety	$ 493	$ 538	$ 190	$ 396	$ 155	$ 287	$ 68	$ 166
Schools	$ 2,750	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total	**$ 10,141**	**$ 8,943**	**$ 4,896**	**$ 3,272**	**$ 3,717**	**$ 1,694**	**$ 1,958**	**$ 1,139**
Phoenix Index		**0.88**		**0.67**		**0.46**		**0.58**

Sources: National Average Impact Fees - Dr. James C. Nicholas, Holland Law Center, University of Florida at Gainsville, 2000.
Metro Phoenix Impact Fees - Maricopa Association of Governments, January 2002
Average New Home Size in Phoenix - Center for Business Research, Arizona State University, Housing in Metropolitan Phoenix, August 2000

average for single-family residential was $3,654 per 1,000 square feet. The highest impact fees are in San Diego, California ($17,247), and the lowest are in Franklin, Tennessee ($213). The Phoenix average, by comparison, is $5,558 – 58% higher than the national sample. The Phoenix high impact fee for single-family residential is Peoria North ($12,680), with several municipalities charging no impact fees.

4. Regional Development Impact Fees

Several of the planners interviewed expressed concern about development impacts on the regional transportation system. If the area does not contain adequate existing or planned regional roadway capacity this could create pervasive traffic congestion. This raises the question, "Could regional development impact fees be used to finance regional facilities?" Such a system could integrate infrastructure provision and tax policy to create equity both across jurisdictions and between the different levels of government.

The states of Maryland, Oregon and Washington all have a mechanism for regional impact fees that are part of their state growth management legislation. Generally, the fees are part of the State's state planning goals. In Oregon and Washington, regional impact fees are mandatory – they must be used. In Maryland, they are incentive-based – other state funds are allocated to jurisdictions depending on how closely they meet the state planning goals, including regional impact fees. However, municipalities have the option of instituting regional fees or not. The incentives-based model was proposed in an early draft of the Growing Smarter/Plus legislation, would have used incentives to develop and implement state planning goals. The language that would have enabled this was subsequently removed during the public participation and adoption processes.

There are other examples of regional impact fees in California and Nevada.

> The cities of the Coachella Valley (Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, Indio and Coachella) and Riverside County have collected impact fees on new development since 1986 to protect endangered wildlife. The fee is $600 per acre.
>
> The Coachella Valley has also collected regional impact fees for transportation since 1988. This Transportation Uniform Mitigation Fee is tied to on a ½ cent sales tax approved by voters. That proposition included a "return to source" concept, where the TUMF fees are to be split between the cities (35%) and the region (40%) and regional transit (25%). Funding is revoked for cities in the region that do not require regional impact fees.
>
> In Placer, Solano, Stanislaus, San Joaquin, and Yuba Counties, the County and some or all of cities have instituted joint county facilities fees. The cities collect the fees and pass them on to the County, where they are used for new construction and expansion of regional facilities – regional transportation, habitat preserves, and county facilities such as jails.
>
> The Regional Transportation Commission of Washoe County (Reno, Nevada) has the authority for regional transportation impact fees. Regional impact fees outside of Reno are about 15% higher than those inside the city. Inside Reno, regional transportation impact fees range from $500/1,000 square feet for manufacturing to $3,700/1,000 square feet for large box retail.

Arizona's development impact fee legislation does not specifically authorize regional fees, which would be possible only if the legislation were changed or if local communities entered into a compact to use their existing authority to impose and collect regional fees as a condition of development approval. The compact could be implemented through a regional agreement to be approved unanimously local jurisdictions (including the County). It could establish uniform application of the fee region-wide. It also could designate the responsibility for program management and coordination to a single government agency.

A potential obstacle to this method would be in the timely construction of the regional facility for which fees were collected. If this could not be achieved, the fees would constitute a taking. Since the construction of regional facilities is partly funded by the State Department of Transportation, some adjustments in our legislation that would be required to overcome this hurdle.

Alternately, the region's cities and the County could give an agency the authority to implement all aspects of the program, including fee collection. However, this approach would add another level of government review. It also could lengthen project processing and possibly result in conflicts between local jurisdictions and the implementing agency. This conflict would be engendered by our current tax structure, which promotes the maximization of sales tax revenues as a key land use objective.

Whatever the fee level, financing regional transportation infrastructure through development impact fees would have relatively large impacts on most types of commercial and industrial development, compared to residential development. These are the uses that local governments go to great lengths to attract. The impacts to the industrial and commercial attractiveness of this region, and the resulting economic impacts should be considered in addition to (and not at the expense of) the provision of adequate infrastructure to serve it. If legislation for regional development impact fees were adopted, there should be some means to offer the incentive of reduced fees, if development impact fees were paid by some other means. This could not include development impact fees generated by other uses.

5. Joint Impact Fees for Locally Provided Infrastructure

Some of the planning directors interviewed at the inception of the GSI project spoke of traffic congestion generated by developments that were approved by neighboring communities. In such a circumstance, the developers and the approving jurisdiction are defined as "free riders." This was cited as the most significant problem for one small community that does not currently have a means to fund improvements, and will soon experience severe congestion from an adjacent community.

Local governments could elect to use their existing powers to assess fees for developments that impact neighboring jurisdictions. There are examples of intergovernmental agreements that mitigate this kind of inequity in the case of sales tax. [7] It could also be mitigated through development impact fees. Jurisdictions could plan and finance one or several different kinds of facilities jointly through locally collected fiscal impact fees by establishing a joint area of benefit. This could be done by two or more jurisdictions. It would be essential to provide facilities in a timely manner.

Communities that are receiving "windfall" benefits may be reluctant to enter into such an agreement. Planners, who have as a profession taken on the ethical challenge of being stewards of the public health and safety should advise their decision makers of the mutual benefits of a healthy infrastructure both within the community and in adjacent communities.

6. Market Effect of Impact Fees and Alternatives for Infrastructure Financing

Development impact fees are a real cost that has an economic impact on communities that use them. This section reviews the economic impact of development impact fees and other infrastructure funding tools that are possible alternatives.

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[7] The Chandler-Tempe and Queen Creek-Gilbert sales tax sharing agreements are discussed in a subsequent GSI paper.

6.1 Economic Impact of Development Impact Fees[8]

The economic impact of development impact fees is rarely considered by impact fee studies, which usually compute fees directly from the costs of providing infrastructure alone. In 1990, Coopers & Lybrand prepared such a report for the City of San Diego. Though it includes out-of-date cost information, the conceptual discussion of the marketplace impacts of development impact fees is important for municipalities to understand.

From an economic perspective, the major problems with development impact fees is that they are paid in their entirety on a per-building basis, and that they are paid upon pulling a building permit. *This means that their price impact is immediate, rather than on a term basis.*

> The effect on consumers of large buildings (e.g., industrial, office, and retail businesses) is that total dollar costs are high. It is not inconceivable for development impact fees to range from $1-2 million for the largest nonresidential buildings. Thus, development impact fees have an effect on *economic development*.
>
> The effect on buyers or renters of residential buildings is limited to that segment of the market that already pays a disproportionately high share of their income for housing. These are the consumers with average or below average income. Thus, development impact fees have an effect on *housing affordability*. This is particularly a problem in metro Phoenix, as 64% of the region's occupations were paid below the average salary of $30,000.

There are a series of direct and indirect impacts as the cost of public infrastructure improvements repercusses through a local economy. Without going into a discussion, all these impacts are shown in the graph on page 18.

Of particular relevance are the direct impacts – the costs placed upon residential and nonresidential markets. Impact fees will cause an increase of development costs in both markets. The economic impact of that depends upon who pays for the increase. It is possible for the landowner, the developer, and the consumer to bear costs or to share them, as shown in the graph on page 19.

Owners of raw land are individuals, financial institutions, real estate investors, and other institutional investors. These landowners sell to developers, who improve the land with master planning, public sector approvals, and major infrastructure investments. These developers may then build on the property or sell improved land to residential and nonresidential developers and builders, who make on-site infrastructure improvements and construct residential and nonresidential buildings. Buildings or improved land are ultimately sold or rented to consumers – individual homebuyers and businesses.

Thus, there are two real estate markets that could be affected by development impact fees. Landowners and developers are sellers and buyers in raw land; developers and consumers are sellers and buyers in improved land and buildings.

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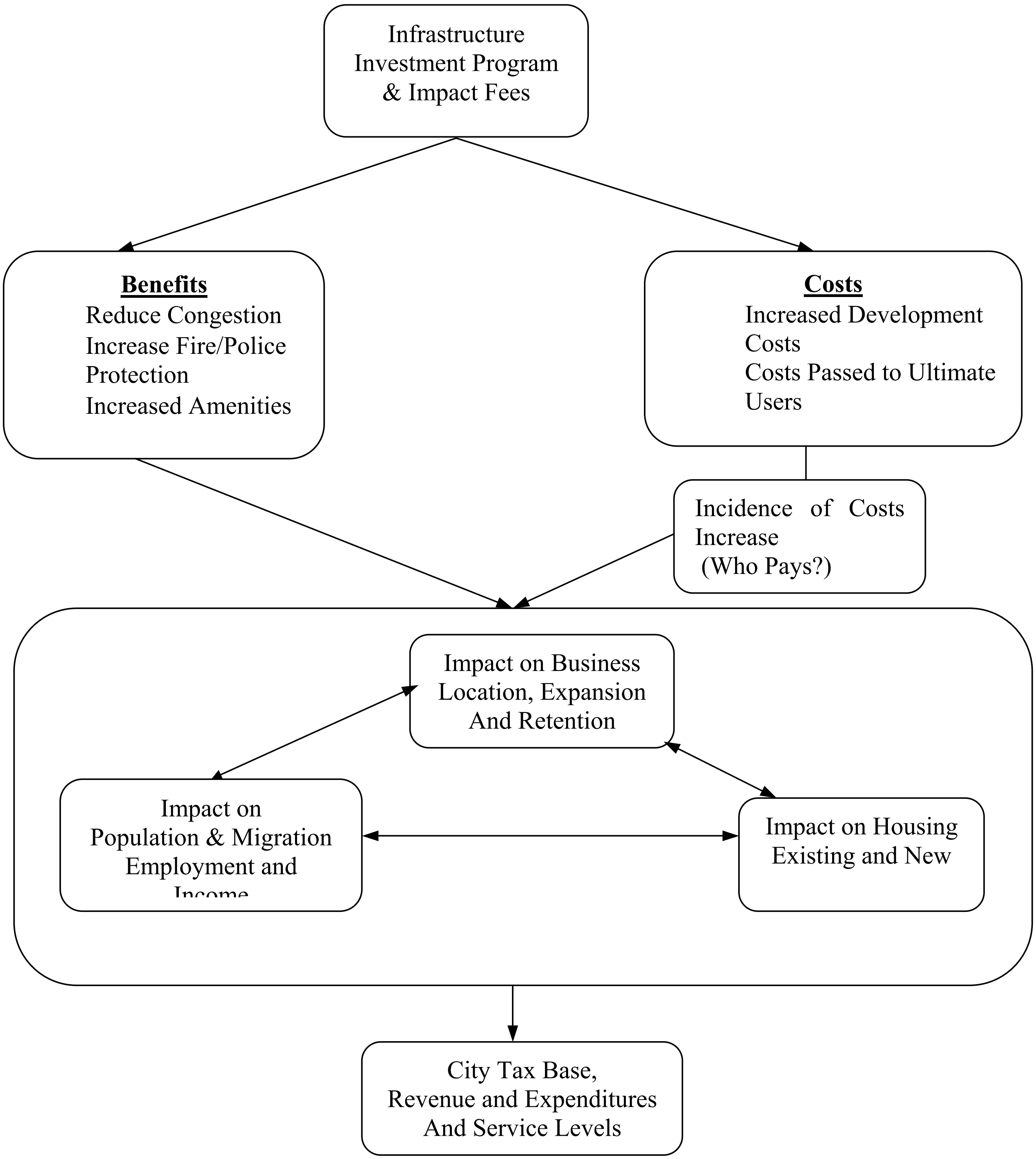
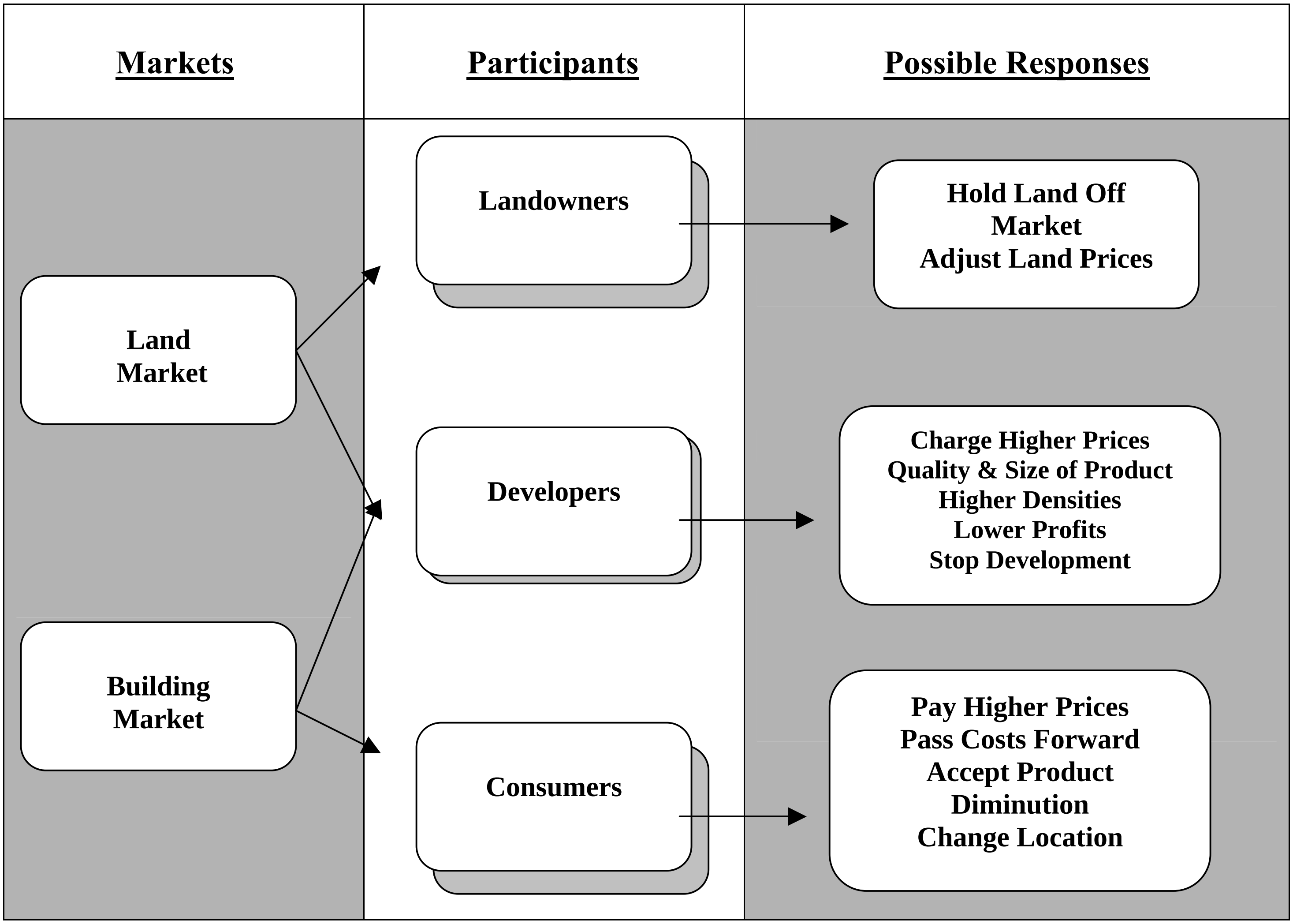
[8] Coopers & Lybrand, Economic Impact of Proposed City-Wide Impact Fees for the City of San Diego, July 16, 1990.

CONCEPTUAL FRAMEWORK FOR ECONOMIC IMPACT ANALYSIS OF IMPACT FEES



Source: *Coopers & Lybrand, Economic Impact of Proposed City-Wide Impact Fees for the City of San Diego, July 16, 1990*

WHO PAYS FOR IMPACT FEES?
PARTICIPANTS IN THE DEVELOPMENT PROCESS



Source: *Coopers & Lybrand, Economic Impact of Propose City-Wide Impact Fees for the City of San Diego, July 16, 1990.*

In each of these markets, sellers and buyers will try to pass costs to the other party. The price that consumers – buyers – are willing to pay is the critical variable that forces responses by all participants in the market. The buyer response is determined by the elasticity of demand with respect to price. This is a measure of how buyer demand will respond to a change in price. If the market is highly price-sensitive (for example, a 10% increase in price might cause a 20% decrease in the quantity sold), then the demand is termed highly elastic. On the other hand, if the market is relatively insensitive to price, it may be called inelastic. This means, for example, that a 10% price increase would result in a less than 10% change in the quantity sold.

Regarding development impact fees, the response of consumers – both households and businesses – will determine the demand for buildings. If developers are unable to pass their increased costs to consumers, then they will try to pass costs backwards to landowners.

Developers have several options. First, they may adjust prices. If possible, higher costs may be directly passed forward to buyers or building in the form of higher prices for the same product. Secondly, developers could indirectly pass costs forward by altering the product – they could build smaller buildings or lower quality buildings at a higher effective rate-per-square-foot price. Third, developers might achieve economies of scale by building at higher densities that reduce the per-unit land costs. If these strategies do not work, the higher prices would be absorbed by developers, which would result in lower profits. In the face of lower profits, developers move to other areas, negotiate lower prices for land, change their product mix, or go out of business.

In response, landowners may choose to hold their land off the market or to adjust land prices. For most landowners, especially if the land is debt-financed, the holding costs of land ownership (e.g., interest on land purchase loans) create pressure to sell. In the face of lower demand caused by high development costs and higher end-product prices, landowners may have to lower land prices.

The response of the ultimate end-user – the buyer or renter of residential or nonresidential buildings – largely determines the incidence of Development impact fees. If the end user accepts higher prices for the same building, or accepts product diminution for the same price, then the demand for buildings may not fall significantly. Developers' profits and land prices would also not fall significantly.

Whether or not the ultimate consumers of buildings accept higher prices depends on several factors, which together determines the buyers' elasticity of demand. Is the price increase large enough to affect their behavior? If so, can they pass their increases (in the case of nonresidential buildings) to their own buyers? If neither of these, will they change locations?

> Residential consumers can accept prices, change locations, or live in housing that is below their needs. Equilibrium depends on the cost increase for housing compared to other residential alternatives. These alternatives could include other housing, sharing housing, smaller housing, or lower quality of housing.
>
> In the for-sale market, increased prices will result in a decline in demand. The price increase will be proportionately greater for lower priced single-family housing than for more expensive units. The greater impact at the lower end of the single-family market may result in greater demand for rental units. Ultimately, population growth would be affected.

For new nonresidential end-users, the decision will be to accept prices if they cannot be passed forward to their own buyers, or to locate elsewhere if they cannot. For "basic" employers, who do not sell to a local metro Phoenix market and who do not have to be in metro Phoenix, the location decision will be based on the importance of occupancy costs in comparison to other operating costs. Basic industries for which occupancy is a larger cost factor may relocate from the region in the long run. Larger space users usually search for lower space cost locations.

Nonbasic employers are those who serve the local metro Phoenix market. For this segment, alternative locations from the region may not be an option, though retailers may shift locations to another municipality with lower development impact fees. These businesses – retail and services – are more likely to pass their increased costs forward to their own customers. Thus, regional consumer prices will also bear an increase.

Overall, what would be the direct impact of development impact fees upon regional real estate? Immediately, the cost of new construction would increase. Available supply would fall as the pace of development declines. The demand for new housing will fall, with lower cost single-family housing disproportionately affected. Businesses would face increased investment costs from higher building prices, and will attempt to pass costs on to customers or live with lower profitability.

Additionally, there are two other indirect impacts. First, in each segment of the real estate market, prices and rents of existing buildings will rise as the market tightens and as the higher Development impact fees are capitalized in prices.

Second, the tax base of the region may be affected by the direct impacts of development impact fees. The assessed valuation of new real estate would be higher due to higher prices. In addition, the assessed valuation of resale property would be higher. Lastly, retail prices and, therefore, retail sales taxes would be higher. These effects will result in higher revenues to municipalities. If the higher fees result in a lower level of economic activity, however, future revenues would be lower than they might be otherwise.

6.2 Price Effect of Impact Fees

The economic impacts of development impact fees means that, if they are used exclusively to fund infrastructure in regions like Phoenix that have sustained major population growth, then eventually, like California, the fees could grow so high as to affect economic development and housing affordability.

For example, Coopers & Lybrand[9] found that 1990 single-family residential impact fees in Northern California ranged from a low of $7,100 per unit to a high of $22,000 per unit. *Based on a pro forma cash flow analysis, developers' profits were found to be in the range of 12-16% for lower impact fees and below 2% for higher fees*. The effect on profits was highest in those locations that had higher land prices prior to impact fees.

[9] Coopers & Lybrand, *Effect of Proposed Transportation Impact Fees on Economic Development in San Joaquin County, California,* August 3, 1990.

Average Fees by Region, Sub-Region and Fee Type

REGION	Subdivision House Total Fees	Subdivision House Planning Fees	Subdivision House Building Permit & Plan Check Fees	Subdivision House Impact Fees	Infill House Total Fees	Infill House Planning Fees	Infill House Building Permit & Plan Check Fees	Infill House Impact Fees	Apartment Unit Total Fees	Apartment Unit Planning Fees	Apartment Unit Building Permit & Plan Check Fees	Apartment Unit Impact Fees
State Average	**$24,139**	**$1,096**	**$3,293**	**$19,765**	**$20,278**	**$433**	**$3,276**	**$16,570**	**$14,942**	**$524**	**$1,710**	**$12,862**
Bay Area	$28,668	$1,521	$4,417	$22,729	$27,335	$793	$5,080	$21,734	$18,473	$825	$2,219	$15,851
Central Coast	$29,507	$2,031	$4,463	$23,011	$19,447	$406	$4,542	$15,331	$19,555	$884	$1,955	$16,716
Sacramento	$27,480	$831	$1,340	$25,309	$21,834	$170	$2,774	$18,890	$15,793	$358	$1,298	$14,137
San Joaquin Valley	$18,354	$825	$2,700	$14,828	$14,320	$218	$2,656	$12,432	$10,648	$315	$1,205	$9,127
North State/Sierras	$19,444	$410	$3,206	$15,827	$19,852	$322	$2.80	$16,753	$11,367	$418	$1,531	$9,916
So. California	$21,379	$959	$3,632	$16,884	$18,882	$687	$4,599	$14,282	$13,817	$341	$2,053	$11,422

Source: California Department of Housing and Community Development, 2000

Another applied example of the economic cost of development impact fees is reported in a California study[10]. Impact fees are the largest share of all local development fees. Impact fees typically account for 80 percent of subdivision and infill home fees and 86 percent of apartment fees. Building permit and plan check fees are the next largest component, accounting for 18 percent of infill home fees, 14 percent of subdivision home fees, and 11 percent of apartment unit fees. Planning fees account for the remainder, and are five percent, three percent and two percent, respectively, of total subdivision, apartment, and infill home fees.

California's high residential development impact fees significantly contribute to its high housing costs and prices. Among the sample of California jurisdictions, fees account for an average of ***ten percent*** of the median price of new single-family homes.

Not surprisingly, fees account for a lower share of housing prices in more expensive housing markets, and a higher share in less expensive markets. Among individual communities, development impact fees accounted for less than five percent of new home prices in Arcadia, Carlsbad, Irvine, Los Gatos, Pasadena, Santa Barbara, and Santa Monica.

At the opposite end of the price spectrum, fees accounted for more than ***fifteen percent*** of new home prices in Sacramento County, Brentwood, Lincoln, Merced, Modesto, Sacramento County, Santa Barbara County, Stockton, Vallejo, and Watsonville. ***Many of these latter jurisdictions provide a significant share of their respective region's affordable housing, making the problem of high fees all the more onerous.***

Looking at the MAG Region, the development impact fees surveyed in this study provides an order-of-magnitude estimate of the economic effect of impact fees by jurisdiction, using a fairly simplistic methodology.

This is based on an average of sales prices per square foot, applied to the metropolitan average single-family residential home size of 1,850 square feet. To obtain average price, a set of 16 comparables built in 2001 or currently under construction in the City of Chandler was used[11].

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[10] *Pay to Play: Residential Development Impact Fees in California Cities and Counties*, State Department of Housing and Community Development, 1999.

[11] National Association of Realtors, January 2002.

The table to the right shows the comps, their size, the asking sales price, Chandler impact fees, the asking sales price less the Chandler impact fee, and finally the sales price per square foot prior to impact fees.

The average sales price is $83.81 per square foot, prior to impact fees. Based on the metropolitan average size of 1,850, a prototype sales price of $155,042 is used for the MAG Region average.

The effect of impact fees for Maricopa County municipalities is shown in the table on the next page.

The average price increase for the comparable of a 1,850 square foot single-family house priced at $155,042 before impact fees is 6.6%. This increase raises the price of that prototype home by $10,245 – to $165,287.

Chandler, Homes Built in 2001 and Under Construction

Comp	Square Feet	Sales Price	Impact Fees	Price Less Impact Fees	Price/Sq. Ft. Less Impact Fees
1	2,125	$ 158,900	$ 17,378	$ 141,522	$ 66.60
2	2,125	$ 168,724	$ 17,378	$ 151,346	$ 71.22
3	2,125	$ 170,241	$ 17,378	$ 152,863	$ 71.94
4	2,125	$ 175,000	$ 17,378	$ 157,622	$ 74.17
5	2,125	$ 179,563	$ 17,378	$ 168,932	$ 79.50
6	1,300	$ 124,695	$ 10,631	$ 107,317	$ 82.55
7	2,125	$ 193,129	$ 17,378	$ 175,751	$ 82.71
8	2,125	$ 193,574	$ 17,378	$ 176,196	$ 82.92
9	2,125	$ 196,858	$ 17,378	$ 182,955	$ 86.10
10	1,700	$ 161,000	$ 13,903	$ 147,097	$ 86.53
11	1,700	$ 160,700	$ 13,903	$ 143,322	$ 84.31
12	2,125	$ 209,900	$ 17,378	$ 192,522	$ 90.60
13	2,125	$ 211,867	$ 17,378	$ 197,964	$ 93.16
14	1,700	$ 175,750	$ 13,903	$ 158,372	$ 93.16
15	2,125	$ 225,000	$ 17,378	$ 207,622	$ 97.70
16	2,125	$ 225,095	$ 17,378	$ 207,717	$ 97.75
Average	**1,994**	**$ 183,125**	**$ 16,305**	**$ 166,820**	**$ 83.81**
StDev	251	$ 27,025	$ 2,055	$ 27,218	$ 9.42
Above	2,245	$ 210,150	$ 18,360	$ 194,038	$ 93.23
Below	1,743	$ 156,099	$ 14,250	$ 139,602	$ 74.38

Source: National Association of Realtors January 2002, http://www.realtor.com

The highest effect on single-family home pricing is in Peoria North, Phoenix North, Glendale, Peoria South, and Chandler. Each of these municipalities creates an impact fee price difference of about 10% or above. The actual price effect would be higher if, like the California study, planning fees and building permit, plan check and inspection fees were included.

. **Effect of Municipal Impact Fees on Single-Family Housing Price**

	Impact Fee	Fee for 1,850 s.f.	% of Price Before Fee	Price With Fee
Peoria North	$ 12,680	$ 23,458	15.1%	$ 178,500
Phoenix High	$ 12,160	$ 22,496	14.5%	$ 177,538
Glendale	$ 9,360	$ 17,316	11.2%	$ 172,358
Peoria South	$ 9,008	$ 16,665	10.7%	$ 171,707
Chandler	$ 8,178	$ 15,129	9.8%	$ 170,171
Queen Creek	$ 7,309	$ 13,522	8.7%	$ 168,564
Surprise	$ 7,268	$ 13,446	8.7%	$ 168,488
Gilbert	$ 6,946	$ 12,850	8.3%	$ 167,892
Avondale	$ 6,545	$ 12,108	7.8%	$ 167,150
MAG Region Average	**$ 5,538**	**$ 10,245**	**6.6%**	**$ 165,287**
Scottsdale North	$ 5,462	$ 10,105	6.5%	$ 165,147
Buckeye	$ 4,962	$ 9,180	5.9%	$ 164,222
Goodyear	$ 4,896	$ 9,058	5.8%	$ 164,100
Mesa	$ 3,539	$ 6,547	4.2%	$ 161,589
Phoenix Low	$ 3,470	$ 6,420	4.1%	$ 161,461
Fountain Hills	$ 3,275	$ 6,059	3.9%	$ 161,101
Tolleson	$ 3,114	$ 5,761	3.7%	$ 160,803
Cave Creek	$ 2,945	$ 5,448	3.5%	$ 160,490
Tempe	$ 2,275	$ 4,209	2.7%	$ 159,251
Scottsdale South	$ 1,900	$ 3,515	2.3%	$ 158,557
Apache Junction	$ 1,006	$ 1,861	1.2%	$ 156,903

Source: Maricopa Association of Governments, 2002

6.3 Community Facilities Districts

In contrast to development impact fees, funding infrastructure through property taxes has two price-lowering advantages that neutralizes economic impact: first, costs are spread over a long time period and have a smaller impact on real estate prices; second, they are shared by a larger group, which lowers per-unit prices. The major disadvantage of property taxes is their political unpopularity with voters.

The American Planning Association reports that many communities in the fastest-growing regions of the nation – especially California and Florida – are using community facilities districts, which are based on property tax revenues from new development.[12] Community facilities districts (CFD's) are special purpose municipal entities that are established to fund infrastructure in specified geographic area that will benefit from the services provided by those facilities – exactly the nature and function of developer impact fees. The main function of CFD's is to facilitate the construction of the types of infrastructure that are commonly covered by impact fees – streets, parks, water and wastewater facilities, police and fire stations, and drainage facilities.

[12] Douglas Frost, *Making Growth Pay Its Way: Combining Facilities Districts With Impact Fees to Fund Infrastructure,* Public Investment, December 2001, American Planning Association

CFD's fund infrastructure by issuing bonds, which are repaid through revenues collected on special assessments on all developed property in the district. CFD bonds are tax-exempt, but are not always guaranteed by the municipality. Developers must often guarantee the bonds and limitations are often imposed on how much debt can be issued.

Depending on state enabling legislation, CFD's can be established with the consent of half or two-thirds of the property owners and voters in the proposed district. They are almost always established in undeveloped areas with only a few initial property owners. CFD's are more often than not formed when a large developer or consortium of developers approaches a city or county. If done properly, CFD's can produce a win-win situation for both the municipality and the developer. The municipality is able to facilitate new development without increasing its own debt load, while the developer is able to move the liability of borrowing for new infrastructure off his balance sheet onto that of the new district.

A key concern related to CFD's is whether or not the assessment base will grow fast enough to generate the revenues necessary to pay for interest on outstanding bonds. Defaults by CFD's have occurred in California, Colorado and Arizona, and as a result municipalities are reluctant to get involved. A good way for fiscally conservative municipalities to approach CFD's is to only agree to their formation when the developer is ready and able to establish a large buffer fund that will be used to make bond payments while the assessment base is too small to easily support the interest costs. Another alternative is to combine impact fees with CFD's, setting the impact fees at a rate that would cover interest payments only – about 10% of principal required for infrastructure construction.

Community facilities districts are an alternative to impact fees that lower negative effects on housing affordability and economic development. They are most practical in cases with few property owners – undeveloped land or nonresidential districts.

7. Conclusions

The system of development impact fees in metro Phoenix is complex for many reasons. There are 23 jurisdictions that assess fees independently, and for different kinds of facilities. Other mechanisms, such as exactions, community facilities districts and financing from the general fund are used in varying combinations with fiscal impact fees. All of these must be considered when comparing the costs of development in different communities. Additionally, municipalities charge planning, building permit, plan check and inspection fees to private development. Other than impact fees, no other municipal development fees of MAG member agencies was surveyed in this report.

Seventeen of 23 MAG member agencies charge impact fees. The regional average impact fee for these 17 municipalities is $5,558. In general, MAG region municipalities charge higher fees than comparables from other surveys for water and wastewater, charge no school facility impact fees due to State legislation, but charge much lower impact fees for transportation. The highest fees in the MAG region are in the north area in Peoria North and Phoenix North. The lowest impact fees are in Scottsdale South and Apache Junction.

In comparing metropolitan Phoenix impact fees to other parts of the country, the results are somewhat inconclusive due to the absence of "apples-to-apples" comparisons. According to the Florida survey, the average single-family impact fee in Maricopa County is about 88% lower than the national average, and nonresidential impact fees – especially office and industrial – substantially lower. According to the Maryland survey, metro Phoenix municipalities have impact fees more than 50% higher than the national survey sample average. According to the California study, which includes the largest number of counties and municipalities in its survey, metro Phoenix impact fees are 28% of the California average.

Each community must consider the balance of fees with potential revenues from economic development, impacts to housing affordability and feasibility of infill development. Though the cost of impact fees can be borne by developers, landowners, or ultimate consumers of buildings, in practice most impact fees are passed on to the building buyer or renter. Based on a prototype analysis, single-family impact fees create a price increase of 6.6% for the county average, and as high as 10 to 15% in five areas.

Clearly, impact fees for some Maricopa County jurisdiction are reaching levels that will have a negative effect on housing affordability – not only for the poorest residents, but also for the 64% of workers who earn salaries below the regional average. These competing goals can be mitigated by offsets, such as Gilbert uses, if the jurisdiction can pay the development impact fees attributed to these uses from some funding source other than development impact fees. Though fees should not be mitigated at the cost of level of service standards, MAG member agencies should start explicitly considering the unintended consequences of impact fees upon their economic development competitiveness and housing affordability.

In the MAG Region, there is no provision for regional infrastructure impact fees. Though there are few examples around the nation, there are enough examples to show that the cost of regional infrastructure can be implemented.

Overall, most municipalities seem to do a good job of ensuring that local development approvals are accompanied by some means to provide or finance infrastructure that will be required to serve it. There are some factors that jeopardize local government's ability to maintain adequate infrastructure standards. Those that were most often mentioned in the planning department interviews are:

When one community approves a project that creates infrastructure deficits in another;

When a one local government approves a large scale project that creates regional infrastructure deficits;

When early impact fees are not of a sufficient scale to purchase park sites and students in newly developing areas often arrive long before the facility funding to accommodate them. This delayed purchase can cause these uses to be sited on remnant parcels, and the potential to develop them as focal points for neighborhood and community identity is lost forever. The municipal ability to set impact fees for school facilities are a particular drawback in Arizona, since most other states have legislation enabling these.

The provision of facilities does not equate to the funding of the services that they provide. Facilities must be maintained and staffed. In the case of a newly emerging community that has not yet captured the commercial uses that generate revenues for service costs, shortfalls in the operating budget can create both operational and upkeep shortfalls.

There are cases of some local governments using innovative new tools to mitigate these detrimental effects. In addition to development impact fees, these include

Adequate public facilities ordinances

Agreements such as the Southwest Cities, Schools and Developers Partnership

Comprehensive development agreements, such as the one recently negotiated by the Town of Goodyear.

8. Recommendations

1. It would be useful to local governments to have an updated comparative development impact fee survey on a regular basis. This could be accomplished by MAG member agencies providing an updated fee schedule each time that the fees are updated. MAG would keep the table updated based on this information. This process would be simplified if MAG member agencies adopted a common language to describe the different fee categories that each uses. As most of the communities surveyed retained Tishler and Associates as a consultant for impact fees, perhaps their methodology could provide the basis for the definitions. Alternately, the California Department of Housing and Community Development methodology, which includes all development fees – not only impact fees – could be used.

2. Both municipalities and counties should consider the impact of development impact fees upon uses that they would like to attract to promote their objectives for economic development, housing affordability and infill. (The Town of Gilbert includes a line detailing economic development offsets in their fee schedule.) Although the statutes specify that fees must be assessed in a "non-discriminatory manner" local governments can offer the incentive of paying their fee from some other funding source. Combining community facilities districts with impact fees can also mitigate unintended consequences upon economic development and housing affordability.

3. When a community is considering approval of a development that will have adverse impacts on a neighboring jurisdiction, it should put mechanisms in place to mitigate this damage, such as intergovernmental agreements for sales tax sharing and/or joint development impact fee benefit areas. This kind of an agreement could offer participants protection from such externally produced burdens. It would be based on an agreed upon threshold of impact. These could be accomplished as legislation, by unanimous regional compact or as an informal policy or intergovernmental agreement between two or more jurisdictions.

4. Local governments should discuss the feasibility of development impact fees and/or extraterritorial jurisdiction to mitigate un-funded excesses of regional system capacity generated by an approval in a single community. As in the case of policies to mitigate inter-local development impacts, these could be based on some agreed upon threshold of scale. In the case of regional facilities, these policies could be adopted as legislation, or by a unanimously agreed-to regional compact.

5. MAG member agencies should support better school and park siting by adopting a joint legislative platform to extend the amount of time that park and school sites can be reserved as a part of the development approval process. Additionally, MAG member agencies should continue to champion school facility impact fee legislation in Arizona.

6. In undeveloped or emerging areas, local governments should work with their school districts to ensure that development does not precede the school capacity that is required to serve it. In assessing school Development impact fees, Apache Junction blazed a trail that several other communities were prepared to follow, had the court decision been different. School Development impact fees have been introduced and overturned every year at the legislature for a decade, and this may continue. Queen Creek, Buckeye and Glendale ensure adequacy with the adequate public facilities ordinance[13]. Goodyear, Litchfield Park and Avondale use a sub regional compact that includes participation by school districts and developers. These means may be more feasible.

7. Communities that do not yet have sufficient commercial revenue generating uses in place to support the service costs necessary to operate and maintain capital facilities required for new development may want to negotiate development agreements for some portion of early service costs, as was recently done in Goodyear.

[13] See MAG GSI Paper #1 for more detail.

Appendix A
Instrument for Comparative Survey

The MAG Planners Stakeholders Group is comprised of planners from every jurisdiction in Metropolitan Phoenix and from neighboring areas. In October 2000, this group selected ten planning issues for white papers that will be researched by MAG Associates. These will be provided as resources to all participants.

One of the top ten issues was a comparative survey of development impact fees in the region. Please take a few moments to complete the following survey and return it to me by July 27, 2001. Please feel free to call me with your questions or comments, and thanks in advance for your participation.

Corey Cox, AICP
Phone/FAX (480) 663-1820
e-mail: plannerz@qwest.net

Survey Questions

Municipality:
Contact Person:
Name:
Phone Number:
E-mail:

1) Does your community charge development impact fees"?
2) What categories of facilities are included in your program?
3) Do you include design, construction and administration fees in your fee calculations?
4) Do you provide offsets for bonds, improvement districts and/or other financing mechanisms? Please explain.
5) Do you differentiate for different areas?
6) Do you incorporate infill incentives and/or incentives for anything else in your fee programs?
7) What are the fees for the following (where a category has a range for different uses, please provide either the "general" category or (if none exists the lowest cost example and the highest cost example):

    One Single Family Unit
    One Multi-family unit
    Retail (1,000 square feet)
    Office (1,000 square feet)
    Industrial (1,000 square feet)

8) How often do you update your fee schedule? When will the next update occur?
9) Did you hire a consultant to assist in designing your fee program? If so, what firm?
10) Would you like a copy of the results of this survey when it is complete?

Appendix B

Excerpts from Municipal and County Development Impact Fee Statutes

9-463.05. Development impact fees; imposition by cities and towns

A. A municipality may assess development impact fees to offset costs to the municipality associated with providing necessary public services to a development.

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

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

2. Monies received from development impact fees assessed pursuant to this section shall be placed in a separate fund and accounted for separately and may only be used for the purposes authorized by this section. Interest earned on monies in the separate fund shall be credited to the fund.

3. The schedule for payment of fees shall be provided by the municipality. The municipality shall provide a credit toward the payment of a development impact fee for the required dedication of public sites and improvements provided by the developer for which that Development impact fee is assessed. The developer of residential dwelling units shall be required to pay development impact fees when construction permits for the dwelling units are issued.

4. The amount of any development impact fees assessed pursuant to this section must bear a reasonable relationship to the burden imposed upon the municipality to provide additional necessary public services to the development. The municipality, in determining the extent of the burden imposed by the development, shall consider, among other things, the contribution made or to be made in the future in cash by taxes, fees or assessments by the property owner towards the capital costs of the necessary public service covered by the development impact fee.

5. If development impact fees are assessed by a municipality, such fees shall be assessed in a non-discriminatory manner.

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

C. A municipality shall give at least thirty days' advance notice of intention to assess a new or increased Development impact fee and shall release to the public a written report including all documentation that supports the assessment of a new or increased development impact fee. The municipality shall conduct a public hearing on the proposed new or increased development impact fee at any time after the expiration of the thirty day notice of intention to assess a new or increased development impact fee and at least fourteen days prior to the scheduled date of adoption of the new or increased fee by the governing body. A development impact fee assessed pursuant to this section shall not be effective until ninety days after its formal adoption by the governing body of the municipality. Nothing in this subsection shall affect any development impact fee adopted prior to July 24, 1982.

11-1102. County development impact fees

A. If a county has adopted a capital improvements plan, the county may assess development impact fees within the covered planning area in order to offset the capital costs for water, sewer, streets, parks and public safety facilities determined by the plan to be necessary for public services provided by the county to a development in the planning area.

B. Development impact fees assessed under this section are subject to the following requirements:

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

2. Monies received from development impact fees shall be placed in a separate fund and accounted for separately and may only be used for the purposes authorized by this section. Interest earned on monies in the separate fund shall be credited to the fund.

3. The county shall prescribe the schedule for paying the development impact fees. The county shall provide a credit toward the payment of the fee for the required dedication of public sites and improvements provided by the developer for which that fee is assessed. The developer of residential dwelling units shall be required to pay the fees when construction permits for the dwelling units are issued.

4. The amount of any development impact fees must bear a reasonable relationship to the burden of capital costs imposed on the county to provide additional necessary public services to the development. In determining the extent of the burden imposed by the development, the county shall consider, among other things, the contribution made or to be made in the future in cash by taxes, fees or assessments by the property owner toward the capital costs of the necessary public service covered by the development impact fee.

5. Development impact fees shall be assessed in a nondiscriminatory manner.

6. In determining and assessing a development impact fee applying to land in a community facilities district established under title 48, chapter 4, article 6, the county shall take into account all public infrastructure provided by the district and capital costs paid by the district for necessary public services and shall not assess a portion of the Development impact fee based on the infrastructure or costs.

C. Before assessing or increasing a development impact fee, the county shall:

1. Give at least one hundred twenty days' advance notice of intention to assess a new or increased development impact fee.

2. Release to the public a written report including all documentation that supports the assessment of a new or increased development impact fee.

3. Conduct a public hearing on the proposed new or increased development impact fee at any time after the expiration of the one hundred twenty day notice of intention to assess a new or increased development impact fee and at least fourteen days before the scheduled date of adoption of the new or increased fee.

D. A development impact fee assessed pursuant to this section is not effective for at least ninety days after its formal adoption by the board of supervisors.

E. This section does not affect any development impact fee adopted before the effective date of this section.

Appendix C. Excerpts From 2001 School Development Impact Iee Bill Currently Before the Legislature

¦ REFERENCE TITLE: school development impact fees; municipalities ¦

¦ State of Arizona ¦
¦ Senate ¦
¦ Forty-fifth Legislature ¦
¦ First Regular Session ¦
¦ 2001 ¦

¦ SB 1161 ¦

¦ Introduced by ¦
¦ Senators Rios: Aguirre, Brown, Hartley, Jackson, Mitchell, Nichols ¦

AN ACT

AMENDING TITLE 15, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE
9; RELATING TO SCHOOL DEVELOPMENT IMPACT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 15, chapter 9, Arizona Revised Statutes, is amended by adding article 9, to read:

ARTICLE 9. SCHOOL DEVELOPMENT IMPACT FEES

15-1061. Definitions

15-1062. Assessment of school development impact fees

A MUNICIPALITY MAY ASSESS SCHOOL DEVELOPMENT IMPACT FEES PURSUANT TO SECTION 9-463.05 TO OFFSET COSTS ASSOCIATED WITH PROVIDING NECESSARY EDUCATIONAL FACILITIES AND SERVICES TO RESIDENTIAL DEVELOPMENTS. A MUNICIPALITY SHALL DETERMINE THE AMOUNT OF THE FEES AS PRESCRIBED IN THIS ARTICLE.

15-1063. Maximum fees; time of assessment

A. BEFORE ASSESSING SCHOOL DEVELOPMENT IMPACT FEES THE MUNICIPALITY SHALL DETERMINE AND DOCUMENT THE COSTS FOR ITEMS DESCRIBED IN SECTION 15-1072, SUBSECTION B. THE MUNICIPALITY SHALL INCLUDE ONLY THOSE COSTS FOR WHICH THERE IS A RATIONAL CONNECTION WITH THE BURDENS IMPOSED BY THE DEVELOPMENT. THE TOTAL FEES ASSESSED AGAINST A RESIDENTIAL DEVELOPMENT SHALL NOT EXCEED TWENTY-FIVE PER CENT OF THESE COSTS.

B. IN ADDITION TO THE TOTAL FEE LIMITATION, SCHOOL DEVELOPMENT IMPACT FEES SHALLNOT EXCEED:

1. FOR A RESIDENTIAL STRUCTURE THAT IS LESS THAN SIX HUNDRED FIFTY SQUARE FEET IN SIZE, TWENTY-FIVE CENTS A SQUARE FOOT.

2. FOR A RESIDENTIAL STRUCTURE THAT IS SIX HUNDRED FIFTY OR MORE SQUARE FEET IN SIZE, SIXTY-FIVE CENTS A SQUARE FOOT UP TO A MAXIMUM OF THREE THOUSAND FIVE HUNDRED SQUARE FEET.

C. THE DEPARTMENT OF EDUCATION SHALL ADJUST THE AMOUNTS THAT MAY BE ASSESSED BY THE ANNUAL GROWTH IN THE GROSS DOMESTIC PRODUCT PRICE DEFLATOR.

D. NO MORE THAN TWENTY-FIVE PER CENT OF THE TOTAL FEES ASSESSED MAY BE MADE DUE AND PAYABLE ON OR BEFORE THE APPROVAL OF THE FINAL PLAT FOR A RESIDENTIAL SUBDIVISION. THE REMAINING FEES ASSESSED ARE DUE AND PAYABLE ON OR BEFORE THE ISSUANCE OF ANY BUILDING PERMITS FOR RESIDENTIAL STRUCTURES OR RESIDENTIAL UNITS. A RESIDENTIAL SUBDIVISION OR MULTIFAMILY RESIDENTIAL
SUBDIVISION THAT DOES NOT REQUIRE OR USE A PLAT SHALL BE ASSESSED AND SHALL PAY THE SCHOOL DEVELOPMENT IMPACT FEES BEFORE THE ISSUANCE OF BUILDING PERMITS FOR ANY RESIDENTIAL STRUCTURES OR UNITS BUILT IN THE SUBDIVISION.

15-1064. Land or facilities in lieu of school development impact fees

A MUNICIPALITY MAY ACCEPT A DONATION OF LAND OR FACILITIES FROM A SUBDIVIDER OR DEVELOPER IN LIEU OF PART OR ALL OF THE FEES. THE DESIGN OF ANY CONTRIBUTED FACILITIES SHALL BE AT THE DISCRETION OF THE MUNICIPALITY.

15-1065. Exempt developments

A DEVELOPMENT THAT BY ZONING, DEED RESTRICTIONS OR OTHER PERMANENT RESTRICTIONS ON OWNERSHIP OR RESIDENCE WITHIN THE DEVELOPMENT RESTRICTS THE PERSONS RESIDING IN THE DEVELOPMENT TO PERSONS TWENTY-TWO YEARS OF AGE OR OLDER IS EXEMPT FROM THE ASSESSMENT AND PAYMENT OF SCHOOL DEVELOPMENT IMPACT FEES.
EACH RESIDENTIAL STRUCTURE OR UNIT WITHIN A DEVELOPMENT THAT CHANGES ITS ZONING OR REMOVES ITS DEED RESTRICTIONS OR OTHER PERMANENT RESTRICTIONS OF OWNERSHIP OR RESIDENCE WITHIN THE DEVELOPMENT TO ALLOW PERSONS RESIDING IN THE DEVELOPMENT TO BE UNDER TWENTY-TWO YEARS OF AGE SHALL BE ASSESSED THE SCHOOL DEVELOPMENT IMPACT FEES IF THE RESIDENTIAL STRUCTURE OR UNIT HAS NOT PREVIOUSLY BEEN ASSESSED AND PAID THE FEES. IF AN EXEMPT DEVELOPMENT FAILS TO ENFORCE ITS ZONING, DEED RESTRICTIONS OR OTHER PERMANENT RESTRICTIONS ON OWNERSHIP OR RESIDENCE WITHIN THE DEVELOPMENT IN ALL CASES, THE EXEMPT DEVELOPMENT LOSES ITS EXEMPTION AND THE ENTIRE DEVELOPMENT IS SUBJECT TO THE FEES.

15-1066. Limitation on approval of residential subdivisions or granting building or hookup permits

A. A MUNICIPALITY OR COUNTY SHALL NOT APPROVE A FINAL PLAT OF A RESIDENTIAL SUBDIVISION, MOBILE HOME PARK OR MULTIFAMILY RESIDENTIAL SUBDIVISION UNLESS THE FEES REQUIRED BY THIS ARTICLE HAVE BEEN PAID.

B. A MUNICIPALITY OR COUNTY SHALL NOT ISSUE A BUILDING PERMIT FOR A RESIDENTIAL STRUCTURE OR RESIDENTIAL UNIT OR APPROVE ANY HOOKUP PERMIT FOR A MOBILE HOME UNLESS THE FEES REQUIRED BY THIS ARTICLE HAVE BEEN PAID TO THE EXTENT THE RESIDENTIAL SUBDIVISION OR MULTIFAMILY RESIDENTIAL SUBDIVISION HAS NOT PREVIOUSLY BEEN ASSESSED OR PAID THE FEES.

15-1067. Notice of preliminary plat

AFTER A PRELIMINARY PLAT IS FILED, THE MUNICIPALITY OR COUNTY IN WHICH IT IS FILED SHALL NOTIFY AND FORWARD A COPY OF THE PLAT TO THE MUNICIPALITY WITHIN WHOSE BOUNDARIES THE PROPERTY DESCRIBED ON THE PRELIMINARY PLAT IS LOCATED. THE DEVELOPER OR SUBDIVIDER SHALL CONTACT THE MUNICIPALITY REGARDING PAYMENT OF THE SCHOOL DEVELOPMENT IMPACT FEES.