

SALT RIVER PIMA-MARICOPA

INDIAN COMMUNITY
10005 East Osborn Road
Scottsdale, Arizona 85256

ORDINANCE NUMBER: SRO-348-09

TO REPEAL CHAPTER 17, ARTICLE XII OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY CODE OF ORDINANCES IN ITS ENTIRETY AND ADOPT A REVISED CHAPTER 17, ARTICLE XII, RELATED TO DEVELOPMENT FEES; PROVIDING FOR A REVISED DEVELOPMENT FEE PROGRAM.

BE IT ENACTED THAT:

Article XII, of Chapter 17 of the Salt River Pima-Maricopa Indian Community Code of Ordinances is repealed in its entirety and a revised Article XII is hereby enacted in its place:

ARTICLE XII.

DEVELOPMENT FEES

Sec. 17-251. Policy and purpose

- (a) **Policy.** It is the policy of the Community that new development pay its fair share of public facility costs through development fees, which will be used to finance, defray, or reimburse all or a portion of the costs incurred by the Community for public improvements necessitated by and provided to serve such development.
- (b) **Purpose.** The purpose of this article is to provide for the assessment and payment of development fees by applicants for new development such that the fair share of new development's impacts on public facilities are mitigated and adequate public facilities may be provided in a timely manner to new development.

Sec. 17-252. Findings.

The Community Council of the Salt River Pima-Maricopa Indian Community recognizes that growth and development in the Community will require that the capacity of the Community's public facilities be expanded in order to maintain adequate levels of service, and that without a funded program for public facility improvements, new growth and development will have to be limited to ensure that the health, safety and welfare of the members of the Community are not compromised.

- (a) The Community Council has completed a study establishing the type, amount, and cost of projected public facility improvements needed to serve new development.
- (b) The regulatory framework set forth in this Article, which requires new development to pay reasonable development fees, requires new development to pay only its fair share of the costs of capital capacity of new public facilities created by new growth and development.

- (c) The technical data, findings, and conclusions herein are based on the Community General Plan, as amended, the “Technical Report,” and other relevant studies and reports providing detailed background for the establishment of appropriate development fees.

Sec. 17-253. Adoption of technical report as basis of development fees

The Community hereby adopts and incorporates by reference the report entitled “SRPMIC Infrastructure Improvement Plan and Development Fee Study,” dated April 17, 2009, prepared by URS and TischlerBise, which supports the amounts and reasonableness of the development fees implemented by this Article.

Sec. 17-254. Interpretations of article

Interpretation of the provisions of this Article shall be made by the Director based on, among other things, the policies, purposes, and findings set forth above, the technical report upon which development fees implemented herein are based, the Community’s Constitution, and other applicable laws governing development fees.

Sec. 17-255. Effect on other regulations and requirements

- (a) This Article may not be construed to alter, amend, or modify any provision of the SRP-MIC Code of Ordinances. Other provisions of the SRP-MIC Code of Ordinances shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this Article.
- (b) The payment of development fees shall not entitle the applicant to a building or construction permit, tenant improvement permit, certificate of occupancy, or other final Community approval unless all land use, zoning, planning, building code, fire code, and other applicable requirements, standards, and conditions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of development fees required by this Article.
- (c) This Article shall not affect, in any manner, the permissible use of property, density, or intensity of development, design and improvement standards, or other applicable standards or requirements of the Community’s Zoning Ordinance, Design Review requirements, and the Community Code.

Sec. 17-256. Definitions

- (a) **“Accessory use”** means a land use incidental to or subordinate to, but on the same lot or parcel as a principal land use and necessary to the convenience of those engaged in the principal use, which use may be conducted in an accessory building or structure.
- (b) **“Capital improvements”** include, but are not limited to, costs associated with the planning, design, and construction of new or expanded public facilities, which have a life expectancy of three or more years, and the land acquisition, easements, land improvement, design, and engineering related thereto. Capital improvements do not include site-related capital improvements, routine and periodic maintenance expenditures, personnel, training, or other operating costs, but do include, but are not limited to, the

following costs as they relate to the provision of public facilities:

- i. the cost of all labor and materials;
 - ii. the cost of all lands, right-of-way, property, rights, easements, and franchises acquired, including costs of acquisition or condemnation;
 - iii. the cost of all plans and specifications;
 - iv. the cost of new equipment;
 - v. the cost of all construction, new drainage facilities in conjunction with new buildings and structures, and public facility site improvements;
 - vi. the cost of relocating utilities to accommodate new construction;
 - vii. the cost of engineering and master plans;
 - viii. the cost of all land surveying and soils and materials testing; and
 - ix. the cost of mitigating negative impacts of construction including natural resource impacts, environmental impacts, noise impacts, air quality impacts, cultural resources impacts, and community impacts.
- (c) **“Capital improvements program” or “CIP”** means a schedule of planned public facility capital improvements, which indicates the estimated costs and timing for planned capital improvements, including Community master plans, infrastructure improvements plans, and other capital planning schedules and budgetary documents.
- (d) **“Capital Improvements Program Advisory Committee” or “CIPAC”** means a multidisciplinary staff team of the SRP-MIC, designated by the Community Manager, responsible for compiling project needs, reviewing cost estimates, preparing budget requests and planning a program schedule.
- (e) **“Community”** means the Salt River Pima-Maricopa Indian Community.
- (f) **“Community manager”** means the community manager for the Salt River Pima-Maricopa Indian Community or the Community manager’s designee.
- (g) **“Developer”** means a person, corporation, organization, or other legal entity undertaking development, or the developer’s authorized agent.
- (h) **“Development”** means any construction or expansion of a building(s) or structure(s), or any changes in the use of any building(s) or structure(s) or land use that will generate additional impacts on the Community's public facilities.
- (i) **“Development fee”** means a fee imposed pursuant to this Article.
- (j) **“Development fee service area”** means a geographic area, including all or a designated portion of the Community, from which development fees are collected and for the benefit of which development fees are spent, pursuant to the specific provisions of this Article.
- (k) **“Director”** means the Director of the Community Development Department or the Director’s designee.

- (l) **"Encumbered"** means legally obligated or otherwise committed to use by appropriation or contract.
- (m) **"Essential public services"** means services or buildings owned, managed, or operated by or in the interest of a governmental entity, which provides a function critical to the health, safety, and welfare of the public, but which is not proprietary in nature. Essential public services may specifically include, but not be limited to, schools (including charter schools), water and sewer services, emergency services, publicly-owned housing, and public safety facilities and services.
- (n) **"Fee payer"** means a person undertaking development who pays a development fee in accordance with the terms of this Article.
- (o) **"Fire development fee"** means the development fee imposed upon new development by this Article in order to offset new development's fair share impact on fire facilities.
- (p) **"Fire facilities"** means capital improvements necessary to provide Community fire protection services to new development, consistent with the technical report.
- (q) **"New development"** means development for which a building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval is issued after the effective date of this Article. New development includes intensifications of existing land uses.
- (r) **"Non-commencement"** means the cancellation of construction activity making a material change in a structure, or the cancellation of any other development activity making a material change in the use or appearance of land.
- (s) **"Non-residential development"** means those land uses that are not for residential purposes.
- (t) **"Offset"** means a credit, payment, reimbursement, or waiver of development fees due, given pursuant to the terms of this Article as a result of the dedication, construction, or funding of an offset-eligible improvement.
- (u) **"Offset agreement"** means an executed, binding agreement between an applicant and the Community and other necessary parties, which provides for offsets against development fees in exchange for offset-eligible improvements provided by the applicant or the applicant's agent.
- (v) **"Offset-eligible improvement"** means a capital improvement constructed, dedicated, or funded by a party other than the Community, pursuant to the requirements of this Article, and which is not a site-related capital improvement.
- (w) **"Person"** means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having joint or common interest, or any other legal entity.

- (x) **"Police development fee"** means the development fee imposed upon new development by this Article in order to offset new development's fair share impact on police facilities.
- (y) **"Police facilities"** means capital improvements necessary to provide Community law enforcement services to new development, consistent with the technical report.
- (z) **"Public facilities"** means storm drainage, transportation, water, wastewater, police, and fire facilities for which development fees are collected pursuant to this Article, which are not site-related capital improvements.
- (aa) **"Public facilities capital costs"** means the costs of providing capital improvements for public facilities.
- (bb) **"Residential development"** means development intended for permanent housing.
- (cc) **"Site-related capital improvements"** means a capital improvement, whether on- or off-site, necessary to provide direct access to a particular proposed development or to address impacts attributable solely to a proposed development; including but not limited to, direct access improvements, driveways, turn lanes, acceleration or deceleration lanes, medians and median openings, curb cuts, sidewalks, signalization primarily serving a particular development, signage, frontage roads, and on-site water, wastewater, and storm drainage improvements, which are not on the CIP. "Site-related capital improvements" include any relocation of utilities that are required to accommodate the proposed development.
- (dd) **"Storm drainage development fee"** means the development fee imposed upon new nonresidential development by this Article in order to offset nonresidential development's fair share impact on storm drainage facilities.
- (ee) **"Storm drainage facilities"** means capital improvements necessary to provide storm drainage services to new development, consistent with the technical report, which estimates the demand for storm drainage facilities created by nonresidential land uses only.
- (ff) **"Technical report"** means the report entitled "SRPMIC Infrastructure Improvement Plan and Development Fee Study," dated April 17, 2009, prepared by URS and TischlerBise, which report supports the amounts and reasonableness of the development fees imposed by this Article.
- (gg) **"Temporary uses"** means uses that are required in the construction phase of development or are uniquely short-term or seasonal in nature, including, but not limited to: contractor's project offices, project sales offices, seasonal sales of trees or farm produce, carnivals, and tent meetings.
- (hh) **"Transportation development fee"** means the development fee imposed upon new nonresidential development by this Article in order to offset nonresidential development's fair share impact on transportation facilities.

- (ii) **"Transportation facilities"** means capital improvements necessary to provide roadway capacity to new nonresidential development, consistent with the technical report, which estimates the demand for transportation facilities created by nonresidential land uses only.
- (jj) **"Wastewater development fee"** means the development fee imposed upon new development by this Article in order to offset new development's fair share impact on wastewater facilities.
- (kk) **"Wastewater facilities"** means capital improvements necessary to provide wastewater capacity to new development, consistent with the technical report.
- (ll) **"Water development fee"** means the development fee imposed upon new development by this Article in order to offset new development's fair share impact on water facilities.
- (mm) **"Water facilities"** means capital improvements necessary to provide potable water capacity to new development, consistent with the technical report.

Sec. 17-257. Applicability of this article; exemptions

(a) **Affected area**

Except as expressly provided below, this Article shall apply to all new development within the Salt River Pima-Maricopa Indian Community based on the development fee service areas described in sections 17-265 through 17-270.

(b) **Type of development affected**

Development fees shall be paid by new development, unless the proposed development specifically is not subject to or is exempt from the terms of this Article, or has received an offset pursuant to section 17-260 of this Article.

(c) **Type of development not affected**

The following types of development shall not be required to pay development fees for a particular public facility type, pursuant to this Article:

- i. The replacement of a destroyed or partially destroyed building or structure, with a new building or structure of the same size and use;
- ii. Developments or redevelopments that do not increase the demand for a particular public facility, based on the demand factors and methodology used in the technical report;
- iii. Developments that are the subject of a development agreement or other binding agreement with the Community, or a condition of development approval, which agreement or condition would result in a contribution or payment by an applicant in excess of the applicant's proportionate share or which is in direct conflict with this Article, but only to the extent of such excessive contribution or payment, or conflict; or

iv. Temporary uses.

(d) Exemptions

- i. No development fees shall be required for the following land uses:
 1. Agriculture;
 2. Essential public services;
 3. Residential development; or
 4. Tribal government.
- ii. For uses exempt by this subsection (d) only, funding sources other than development fee revenues will be used, as necessary and appropriate, to fund improvements to public facilities such that the level of service standards in the technical report are maintained. No development fee shall exceed new development's proportionate share capital capacity costs as a result of these exemptions. On an annual basis, the Community will assess the need for these payments during the annual review of the development fee program and applicable CIPs, pursuant to section 17-264 of this Article.

(e) Appeals

Pursuant to section 17-271, if an applicant has filed an appeal and bond or other surety, no development fee shall be required prior to resolution of the appeal, in accordance with the final written determination by the Community Manager or hearing officer.

Sec. 17-258. Application; calculation, collection of development fees; administrative fees

(a) Calculation

- i. The amount of development fees owed for each type of development project shall be in accordance with sections 17-265 through 17-270 of this Article.
- ii. A development fee shall be assessed for each use within the proposed development, except that accessory uses shall be assessed at the same rate as the principal land use.
- iii. Where the specific use for a new development is not known at the time of building or construction permit issuance, the development fee required for the most intense use allowed within the relevant zoning district shall be paid prior to the issuance of the building or construction permit. Upon the issuance of a tenant improvement permit or certificate of occupancy, whichever is first required to establish the actual use, the development fee shall be adjusted by a partial reimbursement by the Community, if applicable, based on the actual land use and the fee schedules set forth in sections 17-265 through 17-270 of this Article.

iv. If the proposed land use is not listed in the fee schedules set forth in sections 17-265 through 17-270 of this Article, the Director shall determine whether the proposed use is similar in demand to a listed use, based on the factors, assumptions, and methodologies set forth in the technical report, the North American Industry Classification System, the ITE Trip Generation Manual, the Land-Based Classification Standards (APA), and other relevant and generally-accepted indicators of land use intensity. The Director also may consult with other department heads or outside professionals in making this determination, based on the factors, assumptions, and methodology set forth in the technical report and other relevant documentation.

v. If the proposed land use represents an expansion or intensification of an existing land use, the development fee shall be equal to the difference between the existing land use and the proposed land use. However, no refund of development fees will be made for the conversion of an existing land use to a less intense proposed use.

(b) Collection

No building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval of new development, which is necessary for the developer to establish an actual land use on a property, shall be issued unless all development fees have been paid, as required by this Article, as amended.

(c) Administrative fees

In order to offset the Community's costs to administer development fees, an administrative fee equal to one percent (1%) of the total development fees due shall be paid at the time development fees are paid.

Sec. 17-259. Individual assessment of development fee

- (a) At the request of applicant, an individual assessment may be used to determine whether a fair share of the public facilities costs necessitated by the proposed development will be less than the fees in the fee schedules set forth in sections 17-265 through 17-270 or as determined by the Director pursuant to section 17-258(a) of this Article. The individual assessment shall be calculated according to the methodology used for the particular public facility in the technical report and the costs of the individual assessment shall be borne by the applicant.
- (b) The individual assessment analysis shall be funded by the applicant and prepared by qualified professionals in the fields of planning and engineering, impact analysis, and economics, as deemed appropriate to the circumstances of the assessment selected by applicant and reasonably approved by the Director.

- (c) With the individualized assessment, the applicant shall submit an administrative fee of \$1,000.00 for costs incurred by the Community to have the study evaluated. If the costs to the Community exceed \$1,000.00, the Director will assess the additional costs to the applicant, along with documentation verifying the costs incurred. The Director will not issue a final decision until all documented costs have been paid by the applicant. If the costs to the Community to have the assessment evaluated are less than \$1,000.00, the Community will refund any balance to the applicant at the time of the Director's final determination.
- (d) Within thirty (30) working days of receipt of an individual assessment analysis, the Director shall determine if the individual assessment analysis is complete and that the required \$1,000.00 administrative fee has been paid. If the Director determines the application is not complete or the administrative fee has not been paid, the Director shall send a written statement specifying the deficiencies to the person submitting the application. Until the deficiencies are corrected and all fees paid, the Director shall take no further action on the application.
- (e) When the Director determines the individual assessment analysis is complete and the fees paid, the Director shall review it within forty-five (45) working days. The Director shall approve the proposed fee if he or she determines that the data, factors, and methodology used to determine the proposed development fee are professionally acceptable and fairly assess the costs for capital improvements to the Community's public facilities systems that are necessitated by the proposed development if the facilities are to be maintained at levels of service in the technical report. If the Director determines that the data, factors, or methodology are unreasonable, the proposed fee shall be denied, the Director shall provide a summary of the reasons for its determination, and the developer shall pay the development fees according to section 17-258 of this Article.

Sec. 17-260. Offsets against development fees due

(a) Applicability; eligibility

i. Applicability.

This section shall apply to any request for an offset submitted on or after the effective date of this Article.

ii. Eligibility.

1. Offsets may be provided pursuant to either an offset agreement with the Community Council, as provided herein, or by the Director pursuant to a documented condition of development approval.

2. Offsets may be granted only for offset-eligible improvements scheduled by the Community to commence construction within five (5) years of the approval of an offset agreement or the condition of approval, which offset-eligible improvement is included on a CIP or for which the Community Council agrees by resolution to add to a CIP during its immediately subsequent annual CIP review.
3. Offsets shall be given only for the same category of public facility as the offset-eligible improvement.
4. Nothing herein precludes the Community from entering into an agreement with an applicant in order to clarify the timing and manner of providing offset-eligible improvements pursuant to a documented condition of development approval.

(b) Requirements and procedures for development fee offsets

Applications for offsets must be made on a form provided by the CIPAC for such purposes. Unless the offset is sought pursuant to a documented condition of development, the offset application must be accompanied by a proposed offset agreement as provided herein.

i. Procedure

1. Upon receipt of a complete application, the CIPAC, Community general counsel, and other appropriate staff must review the application, as well as such other information and evidence as may be deemed relevant.
2. Within sixty (60) calendar days of the receipt of a complete application, the Director must either (a) forward a report to the Community Council as to whether an offset is proper based on the provisions of this Article; or (b) provide written comments or objections to the applicant with respect to the application for an offset or the offset agreement.
3. Within sixty (60) calendar days of the receipt from the Director's report, and based on the terms of the proposed offset agreement, the provisions of this Article, the CIP, the general plan, adopted Community budget, and the technical report, the Community Council must make a final decision to accept, reject, or accept with conditions the proposed offset application regarding the dedication, construction, or funding of an offset-eligible capital improvement in exchange for an offset against development fees owed.

ii. Calculation of the value of offset

1. The value of any offset shall be calculated as the lower of the following:
 - a. the amount of the development fees due; or

- b. the actual verified costs of dedication or construction.
2. This section 17-262 does not apply to any reimbursements, credits, or refunds for capital improvements provided by an applicant, which exceed the value of the offset pursuant to subsection (ii)(1) above. However, this section does not prohibit the Community from agreeing to such excess reimbursements, credits, or refunds, at its sole discretion, by separate agreement.
3. Actual verified costs shall be calculated as follows:
 - a. *Facilities and equipment associated with the offset-eligible improvement.* Actual cost of construction or equipment, as evidenced by receipts or other sufficient documentation provided by the developer of the offset-eligible improvement and verified by the CIPAC. For projects yet to be built, sufficient documentation may include three (3) bids prepared for and submitted by the applicant or an outside cost estimate commissioned by the Community.
 - b. *Dedication of land associated with the offset-eligible improvement.* The fair market value of the land as determined by a certified property appraiser hired and paid for by the developer. If the CIPAC rejects the developer's appraisal, the Community may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the Community and the developer. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques.

iii. Offset agreement requirements

No capital improvement may be accepted in exchange for an offset except pursuant to a documented condition of development approval or an executed offset agreement between the Community and the provider of the offset-eligible improvement, which agreement shall include the following:

1. a schedule for the initiation, completion, and dedication, as applicable, of proposed offset-eligible improvements;
2. the agreed to offset mechanism including, but not limited to, credits, waivers, payments, and reimbursements;
3. the amount of the development fees, by type, proposed to be offset by the Community;

4. the timing of any offset that will be issued by the Community, with any necessary conditions or limitations;
5. the method of accounting for offsets;
6. terms related to the assignment or transfer of the burdens and benefits conferred under the agreement;
7. a provision that all construction will be in accordance with Community specifications and all regulations set forth in the Community Code; and
8. such other terms and conditions as deemed necessary by the Community to effectuate the provisions of this Article.

c. Recordation; assignability

Not later than ten (10) working days after the execution of the offset agreement, the Community shall record a copy of the agreement with the secretary of the Community Council. Recordation constitutes notice of the offset agreement to all persons. The burdens and benefits conferred under the offset agreement shall be assigned or transferred to other parties only as provided in the offset agreement.

d. Transferability

Offsets granted pursuant to this section, including credits against future development fee payments, may be transferred from the applicant to property owners within the original development without further approval by the Community. No other transfer of offsets shall be allowed except as expressly provided in an offset agreement.

Sec. 17-261. Use of funds collected; development fee accounting

- (a) Development fees collected pursuant to this Article shall be used solely for the purpose of acquisition, expansion, and development of capital improvements included in and scheduled for commencement of construction within the first five years of the CIP or which the Council agrees by resolution to include within the first five years of the CIP. Development fees may not be used for site-related capital improvements. Allowable expenditures include, but are not limited to:
 - i. public facilities and public facilities capital costs;
 - ii. repayment of monies transferred or borrowed from any budgetary fund of the Community which were used to fund the acquisition, expense, and development of public facilities for new development;
 - iii. payment of principal and interest and costs of issuance under any bonds or other indebtedness issued by the Community to provide funds for acquisition, expansion, and development of public facilities;
 - iv. refunds granted pursuant to section 17-262;
 - v. updates to the technical report as required by this Article; and

- vi. offset-eligible improvements, pursuant to section 17-260 of this Article.
- (b) Development fees collected for each public facility category must be spent for the benefit of new development within the development fee service areas described in sections 17-265 through 17-270 of this Article. Incidental benefits accruing to non-fee payers as a secondary result or minor consequence of the provision of facilities to those paying development fees or to existing development do not invalidate the use of development fee revenues pursuant to this Article.
- (c) Development fees collected shall be spent or encumbered for the construction of public facilities within ten (10) years of the date of collection. Development fees shall be considered spent or encumbered in the order received by the Community on a first-in, first-out basis.
- (d) In order to ensure that development fee revenues are earmarked and spent solely for the expansion of public facilities necessary to offset the impacts of new development, the following provisions apply:
 - i. The Community shall establish an external bank account into which all collected development fees will be deposited, separate from the general fund and all other Community funds. Administrative fees shall not be deposited into this account.
 - ii. In order to track the collection and expenditures of development fees, the Community also shall establish an internal revenue fund for development fees, with an internal accounting methodology such that the Community may at all times identify the amount of development fees previously spent and remaining, by public facility type and service area.
 - iii. Amounts withdrawn from a development fee account must be used solely in accordance with the provisions of this Article. Amounts retained in a development fee account shall not be used for any expenditure that would be classified as a maintenance, operations, or repair expense, or to address existing deficiencies in public facilities.

Sec. 17-262. Refunds

- (a) Upon application, development fees shall be returned to the fee payer if the approved development is canceled due to non-commencement of construction or the Community approval expires or is revoked before the funds have been spent or encumbered. Refunds may be made in accordance with this section provided the fee payer, or the fee payer's authorized agent, files a petition for a refund within one (1) year from the date of non-commencement, expiration, or revocation. Applicable administrative fees already collected will be retained by the Community.

- (b) Upon application, in the event development fees are not spent or encumbered by the Community within ten (10) years from the date of collection, the Community shall refund the amount of the fee to the fee payer, or the fee payer's authorized agent, provided a petition for a refund is filed within one (1) year from the expiration of the ten (10) year timeframe.
- (c) A refund application shall include the following information:
 - i. evidence that the development fee was paid for the property, the date of payment, and the amount paid; and
 - ii. other information deemed by the Director to be reasonably necessary in order to determine compliance with the provisions of this section, based on the circumstances of the refund request.
- (d) Within thirty (30) working days of receipt of a refund application, the Director shall determine if it is complete. If the Director determines the refund application is not complete, the Director shall send a written statement specifying the deficiencies by mail to the person submitting the refund application. Unless the deficiencies are corrected, the Director shall take no further action on the refund application.
- (e) When the Director determines the refund application is complete, the Director shall review it within thirty (30) working days, and shall approve the proposed refund if he or she determines that a refund is appropriate based on the criteria of this section 17-262.
- (f) Except for refunds granted pursuant to section 17-262(b), an administrative fee equal to \$500 shall be paid at the time the refund application is submitted in order to offset the Community's costs to process the refund application.

Sec. 17-263. Updating; annual adjustments

- (a) *Updates.*
 - i. At least once every three (3) years, the Community shall update the technical report that provides the basis for the development fees imposed under this Article.
 - ii. Prior to adopting development fees pursuant to a technical report update, the Community Council will hold a public hearing and will give published notice in the Community newspaper at least thirty (30) calendar days prior to the public hearing.
- (b) *Annual adjustments.*

- i. During years when no update occurs and not sooner than one (1) year after the adoption of the applicable technical report, the development fees established in the technical report may be adjusted during preparation of the annual budget, in order to account for changes in the costs of providing public facilities to new development. These annual adjustments shall be consistent with the methodology set forth in the technical report and shall be based on the Construction Cost Index calculated by the Engineering News-Record (ENR), the U.S. Department of Labor Consumer Price Index, and Arizona Department of Transportation databases, or other generally-accepted indicators of facility costs used in the technical report to determine the development fees set forth in this Article.
- ii. Notice and meetings for annual adjustments shall be as provided for during annual budget preparation, or if adjusted at a time other than the annual budget preparation, annual adjustments shall require a public meeting with the Community Council and published notice in the community newspaper at least thirty (30) calendar days prior to the meeting.

Sec. 17-264. Annual statement; capital improvements program

- (a) **Annual statement.** The Director will prepare a statement that shall address, among other things, the following:
 - i. The amount assessed by the Community for each category of development fee.
 - ii. The balance of each development fee account maintained for each type of development fee assessed as of the beginning and end of the fiscal year.
 - iii. The amount of development fee monies spent on and/or planned for public facility capital improvement projects and the location of each project.
- (b) **Capital improvements program.** At least annually, the CIPAC will review current CIPs for each public facility for which development fees are collected, and shall address, among other things, the following:
 - i. Reviewing planned capital improvements to ensure level of service (LOS) standards are maintained, based on the technical report and any exemptions made pursuant to section 17-257(d) of this Article;
 - ii. Ensuring that planned capital improvements, to be funded with the development fees revenues, reflect the proportionate impact of new development.
 - iii. Ensuring that development fee revenues are spent on capital improvements that benefit new development, as provided for in this article.

- iv. Proposing amendments to the CIPs related to offsets granted or to be granted pursuant to this Article; and
- v. Other matters related to the efficient implementation of this Article and its ongoing lawful application to new development.

Sec. 17-265. Storm drainage development fee

(a) Storm drainage development fee service area

The development fee services areas for storm drainage development fees shall be the following geographic areas:

North of Arizona Canal service area: The highlighted areas north of the Arizona Canal, as shown in Figure 1.

South of Arizona Canal service area: The highlighted areas south of the Arizona Canal, as shown in Figure 1.

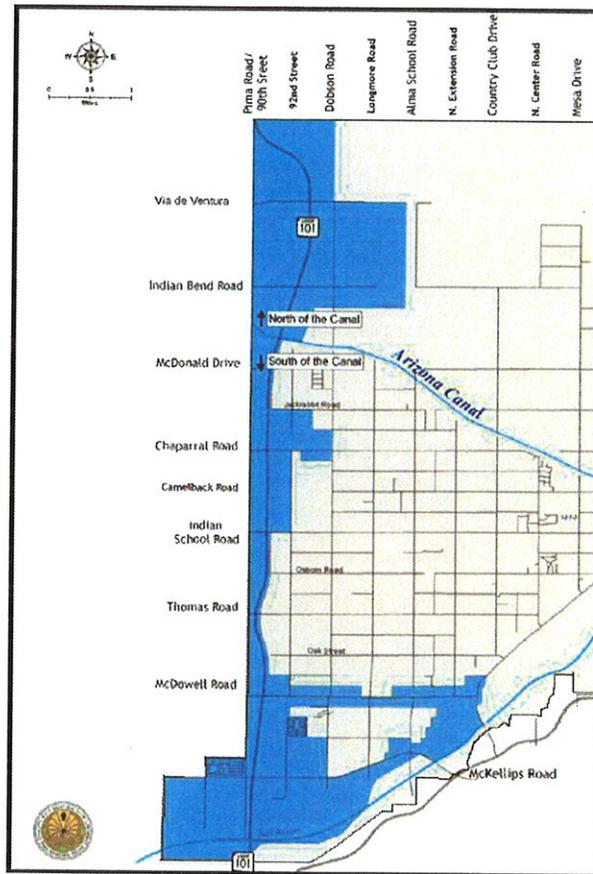


Figure 1

Development fees for storm drainage facilities shall be collected only within these service areas and said fee revenues shall be spent only to the benefit of new development within the service area from which fees are collected.

(b) Storm drainage development fee schedule

Storm drainage development fees shall be assessed and collected from new nonresidential development only, pursuant to all applicable provisions of this Article, in accordance with the development fee service areas described above and the following fee schedule:

<i>Land Use</i>	<i>Development Fee (per square foot of land)</i>	
	<i>North of AZ Canal</i>	<i>South of AZ Canal</i>
Commercial / Shopping Center 50,000 SF or less	\$0.26	\$0.56
Commercial / Shopping Center 50,001-100,000 SF	\$0.26	\$0.56
Commercial / Shopping Center 100,001-200,000 SF	\$0.26	\$0.56
Commercial / Shopping Center over 200,001 SF	\$0.26	\$0.56
Office 25,000 SF or less	\$0.26	\$0.56
Office 25,001-50,000 SF	\$0.26	\$0.56
Office 50,001-100,000 SF	\$0.26	\$0.56
Office over 100,001 SF	\$0.26	\$0.56
Business Park	\$0.26	\$0.56
Light Industrial	\$0.26	\$0.56
Manufacturing	\$0.26	\$0.56
Warehousing	\$0.26	\$0.56
Hotel	\$0.26	\$0.56

(c) Storm drainage development fee account

There shall be established two (2) internal revenue accounts, under which all storm drainage development fees collected shall be kept, a North of Arizona Canal account and a South of Arizona Canal account. Storm drainage development fee revenues collected from each development fee service area described in subsection (a) above shall be accounted for according to the service area from which they were collected. Other than any interest that accrues on the accounts, no other funds shall be maintained in the storm drainage development fee accounts.

Sec. 17-266. Transportation development fee

(a) Transportation development fee service area

The development fee services area for transportation development fees shall be the highlighted area in Figure 2:

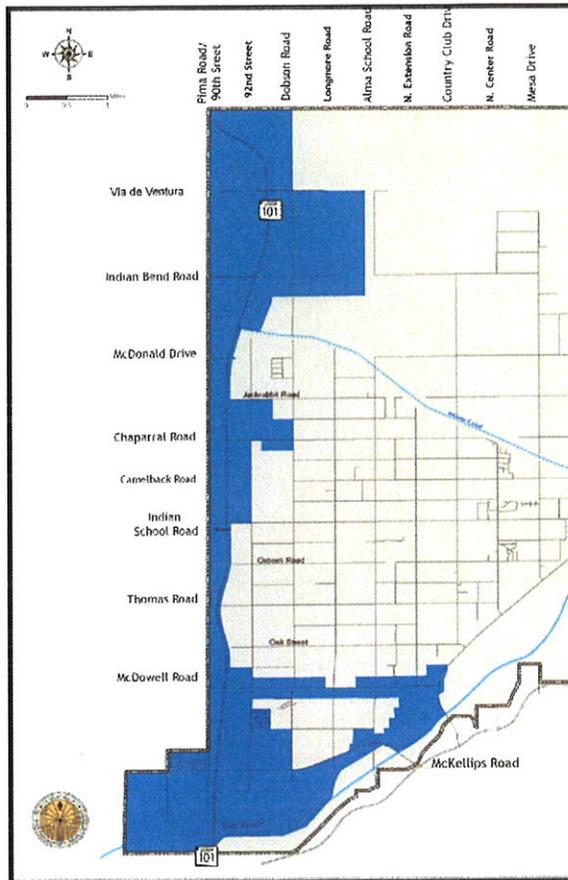


Figure 2

Development fees for transportation facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) Transportation development fee schedule

A transportation development fee shall be assessed and collected from new nonresidential development only, pursuant to all applicable provisions of this Article, in accordance with the following phased fee schedule:

As of June 1, 2009

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room)</i>
Commercial / Shopping Center 50,000 SF or less	\$2.20
Commercial / Shopping Center 50,001-100,000 SF	\$1.92
Commercial / Shopping Center 100,001-200,000 SF	\$1.66
Commercial / Shopping Center over 200,001 SF	\$1.43
Office 25,000 SF or less	\$0.98
Office 25,001-50,000 SF	\$0.84
Office 50,001-100,000 SF	\$0.71
Office over 100,001 SF	\$0.61
Business Park	\$0.68
Light Industrial	\$0.37
Manufacturing	\$0.20
Warehousing	\$0.27
Hotel (per room)	\$301

As of December 1, 2009

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room)</i>
Commercial / Shopping Center 50,000 SF or less	\$4.39
Commercial / Shopping Center 50,001-100,000 SF	\$3.84
Commercial / Shopping Center 100,001-200,000 SF	\$3.33
Commercial / Shopping Center over 200,001 SF	\$2.86
Office 25,000 SF or less	\$1.96
Office 25,001-50,000 SF	\$1.67
Office 50,001-100,000 SF	\$1.43
Office over 100,001 SF	\$1.22
Business Park	\$1.37
Light Industrial	\$0.75
Manufacturing	\$0.41
Warehousing	\$0.53
Hotel (per room)	\$603

As of December 1, 2010

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room)</i>
Commercial / Shopping Center 50,000 SF or less	\$6.28
Commercial / Shopping Center 50,001-100,000 SF	\$5.49
Commercial / Shopping Center 100,001-200,000 SF	\$4.75
Commercial / Shopping Center over 200,001 SF	\$4.08
Office 25,000 SF or less	\$2.81
Office 25,001-50,000 SF	\$2.39
Office 50,001-100,000 SF	\$2.04
Office over 100,001 SF	\$1.74
Business Park	\$1.95
Light Industrial	\$1.07
Manufacturing	\$0.58
Warehousing	\$0.76
Hotel (per room)	\$861

(c) **Transportation development fee account**

There shall be established an internal revenue account, under which all transportation development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the transportation development fee account. Transportation development fee revenues shall be spent only on transportation facilities and transportation capital costs as provided in this Article.

Sec. 17-267. Water development fee

(a) **Water development fee service area**

The development fee service area for water development fees shall include all lands within the Community. Except as expressly provided otherwise by this Article, development fees for water facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) **Water development fee schedule**

A water development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this Article, in accordance with the following phased fee schedule:

As of June 1, 2009

<i>Meter Size (inches)</i>	<i>Type</i>	<i>Capacity Ratio*</i>	<i>Development Fee (per meter)</i>
0.75	Displacement	1.0	\$2,231
1.00	Displacement	1.7	\$3,793
1.50	Displacement	3.3	\$7,365
2.00	Displacement/Compound	5.3	\$11,776
3.00	Compound	11.0	\$24,543
3.00	Turbine	12.0	\$26,692
4.00	Compound	17.0	\$37,910
4.00	Turbine	20.5	\$45,729
6.00	Compound	33.0	\$73,650
6.00	Turbine	41.2	\$91,933
8.00	Compound	53.3	\$118,997
8.00	Turbine	60.2	\$134,238

* Capacity ratios by meter size are from the American Water Works Association (AWWA).

As of December 1, 2009

<i>Meter Size (inches)</i>	<i>Type</i>	<i>Capacity Ratio*</i>	<i>Development Fee (per meter)</i>
0.75	Displacement	1.0	\$4,462
1.00	Displacement	1.7	\$7,586
1.50	Displacement	3.3	\$14,730
2.00	Displacement/Compound	5.3	\$23,551
3.00	Compound	11.0	\$49,086
3.00	Turbine	12.0	\$53,383
4.00	Compound	17.0	\$75,819
4.00	Turbine	20.5	\$91,458
6.00	Compound	33.0	\$147,300
6.00	Turbine	41.2	\$183,867
8.00	Compound	53.3	\$237,994
8.00	Turbine	60.2	\$268,476

* Capacity ratios by meter size are from the American Water Works Association (AWWA).

As of December 1, 2010

<i>Meter Size (inches)</i>	<i>Type</i>	<i>Capacity Ratio*</i>	<i>Development Fee (per meter)</i>
0.75	Displacement	1.0	\$6,376
1.00	Displacement	1.7	\$10,839
1.50	Displacement	3.3	\$21,046
2.00	Displacement/Compound	5.3	\$33,651
3.00	Compound	11.0	\$70,135
3.00	Turbine	12.0	\$76,275
4.00	Compound	17.0	\$108,331
4.00	Turbine	20.5	\$130,676
6.00	Compound	33.0	\$210,464
6.00	Turbine	41.2	\$262,710
8.00	Compound	53.3	\$340,048
8.00	Turbine	60.2	\$383,602

* Capacity ratios by meter size are from the American Water Works Association (AWWA).

(c) Water development fee account

There shall be established an internal revenue account, under which all water development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the water development fee account. Water development fee revenues shall be spent only on water facilities and water capital costs as provided in this Article.

Sec. 17-268. Wastewater development fee

(a) Wastewater development fee service area

The development fee service area for wastewater development fees shall include all lands within the Community. Except as expressly provided otherwise by this Article, development fees for wastewater facilities shall be collected only within this service area and said fee revenues shall be spent to the benefit of new development only within this service area.

(b) Wastewater development fee schedule

A wastewater development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this Article, in accordance with the following fee schedule:

<i>Meter Size (inches)</i>	<i>Type</i>	<i>Capacity Ratio*</i>	<i>Development Fee (per meter)</i>
0.75	Displacement	1.0	\$2,862
1.00	Displacement	1.7	\$4,865
1.50	Displacement	3.3	\$9,447
2.00	Displacement/Compound	5.3	\$15,105
3.00	Compound	11.0	\$31,482
3.00	Turbine	12.0	\$34,238
4.00	Compound	17.0	\$48,628
4.00	Turbine	20.5	\$58,658
6.00	Compound	33.0	\$94,474
6.00	Turbine	41.2	\$117,926
8.00	Compound	53.3	\$152,642
8.00	Turbine	60.2	\$172,192

* Capacity ratios by meter size are from the American Water Works Association (AWWA).

(c) **Wastewater development fee account**

There shall be established an internal revenue account, under which all wastewater development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the wastewater development fee account. Wastewater development fee revenues shall be spent only on wastewater facilities and wastewater capital costs as provided in this Article.

Sec. 17-269. Police development fee

(a) **Police development fee service area**

The development fee service area for police development fees shall include all lands within the Community. Except as expressly provided otherwise by this Article, development fees for police facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) **Police development fee schedule**

A police development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this Article, in accordance with the following phased fee schedule:

As of June 1, 2009

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room or unit)</i>
Commercial / Shopping Center 50,000 SF or less	\$0.83
Commercial / Shopping Center 50,001-100,000 SF	\$0.73
Commercial / Shopping Center 100,001-200,000 SF	\$0.63
Commercial / Shopping Center over 200,000 SF	\$0.54
Office 25,000 SF or less	\$0.34
Office 25,001-50,000 SF	\$0.29
Office 50,001-100,000 SF	\$0.25
Office over 100,000 SF	\$0.21
Business Park	\$0.24
Light Industrial	\$0.13
Manufacturing	\$0.07
Warehousing	\$0.09
Hotel (per room)	\$104
Single Family Detached (per unit)	\$1,661
Multi-Family (per unit)	\$1,055
Mobile Homes (per unit)	\$471

As of December 1, 2009

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room or unit)</i>
Commercial / Shopping Center 50,000 SF or less	\$1.66
Commercial / Shopping Center 50,001-100,000 SF	\$1.46
Commercial / Shopping Center 100,001-200,000 SF	\$1.26
Commercial / Shopping Center over 200,000 SF	\$1.08
Office 25,000 SF or less	\$0.68
Office 25,001-50,000 SF	\$0.58
Office 50,001-100,000 SF	\$0.49
Office over 100,000 SF	\$0.42
Business Park	\$0.47
Light Industrial	\$0.26
Manufacturing	\$0.14
Warehousing	\$0.18
Hotel (per room)	\$208
Single Family Detached	\$3,322
Multi-Family	\$2,111

Mobile Homes	\$941
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As of December 1, 2010

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room or unit)</i>
Commercial / Shopping Center 50,000 SF or less	\$2.38
Commercial / Shopping Center 50,001-100,000 SF	\$2.08
Commercial / Shopping Center 100,001-200,000 SF	\$1.80
Commercial / Shopping Center over 200,000 SF	\$1.55
Office 25,000 SF or less	\$0.97
Office 25,001-50,000 SF	\$0.83
Office 50,001-100,000 SF	\$0.70
Office over 100,000 SF	\$0.60
Business Park	\$0.67
Light Industrial	\$0.37
Manufacturing	\$0.20
Warehousing	\$0.26
Hotel (per room)	\$297
Single Family Detached (per unit)	\$4,746
Multi-Family (per unit)	\$3,015
Mobile Homes (per unit)	\$1,345

(c) **Police development fee account**

There shall be established an internal revenue account, under which all police development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the police development fee account. Police development fee revenues shall be spent only on police facilities and police capital costs as provided in this Article.

Sec. 17-270. Fire development fee

(a) **Fire development fee service area**

The development fee service area for fire development fees shall include all lands within the Community. Except as expressly provided otherwise by this Article, development fees for fire facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) **Fire development fee schedule**

A fire development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this Article, in accordance with the following phased fee schedule:

As of June 1, 2009

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room or unit)</i>
Commercial / Shopping Center 50,000 SF or less	\$0.22
Commercial / Shopping Center 50,001-100,000 SF	\$0.19
Commercial / Shopping Center 100,001-200,000 SF	\$0.17
Commercial / Shopping Center over 200,000 SF	\$0.15
Office 25,000 SF or less	\$0.32
Office 25,001-50,000 SF	\$0.30
Office 50,001-100,000 SF	\$0.28
Office over 100,000 SF	\$0.26
Business Park	\$0.24
Light Industrial	\$0.18
Manufacturing	\$0.14
Warehousing	\$0.10
Hotel (per room)	\$34
Single Family Detached (per unit)	\$2,175
Multi-Family (per unit)	\$1,382
Mobile Homes (per unit)	\$616

As of December 1, 2009

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room or unit)</i>
Commercial / Shopping Center 50,000 SF or less	\$0.44
Commercial / Shopping Center 50,001-100,000 SF	\$0.38
Commercial / Shopping Center 100,001-200,000 SF	\$0.34
Commercial / Shopping Center over 200,000 SF	\$0.31
Office 25,000 SF or less	\$0.63
Office 25,001-50,000 SF	\$0.60
Office 50,001-100,000 SF	\$0.56
Office over 100,000 SF	\$0.51
Business Park	\$0.48
Light Industrial	\$0.35
Manufacturing	\$0.27
Warehousing	\$0.20
Hotel (per room)	\$67
Single Family Detached (per unit)	\$4,350
Multi-Family (per unit)	\$2,764
Mobile Homes (per unit)	\$1,232

As of December 1, 2010

<i>Land Use</i>	<i>Development Fee (per square foot or hotel room or unit)</i>
Commercial / Shopping Center 50,000 SF or less	\$0.62
Commercial / Shopping Center 50,001-100,000 SF	\$0.55
Commercial / Shopping Center 100,001-200,000 SF	\$0.48
Commercial / Shopping Center over 200,000 SF	\$0.44
Office 25,000 SF or less	\$0.91
Office 25,001-50,000 SF	\$0.85
Office 50,001-100,000 SF	\$0.81
Office over 100,000 SF	\$0.73
Business Park	\$0.69
Light Industrial	\$0.50
Manufacturing	\$0.39
Warehousing	\$0.28
Hotel (per room)	\$96
Single Family Detached (per unit)	\$6,215
Multi-Family (per unit)	\$3,948
Mobile Homes (per unit)	\$1,760

(c) **Fire development fee account**

There shall be established an internal revenue account, under which all fire development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the fire development fee account. Fire development fee revenues shall be spent only on fire facilities and fire capital costs as provided in this Article.

Sec. 17-271. Appeals

(a) **Initiation.**

- i. An appeal from a final determination made by the Director or other Community official may be made within thirty (30) calendar days of the time the official's determination has been communicated to the applicant.
- ii. An appeal shall be made on a form provided by the Director and filed with the Community executive secretary.
- iii. The appeal will be decided by the Community Manager, or by a hearing officer appointed by the Community Manager, as provided in this section.
- iv. The filing of an appeal does not stay the imposition or the collection

of the development fee as calculated by the Community unless an appeal bond or other sufficient surety, satisfactory to the Office of General Counsel and the Community Treasurer has been provided. If no such bond or other surety has been accepted by the Community, the applicant must pay all development fees owed prior to filing an appeal.

- v. The bond or other surety shall not be released in whole until the Community Manager or hearing officer either grants the appeal and determines in writing that no additional development fees are thereafter owed by the applicant or the applicant pays all development fees owed following the written determination regarding the appeal by the Community Manager or hearing officer. The bond may provide for partial draws on bond funds or partial releases by the Community.
 - vi. If the appeal form is accompanied by a bond or other sufficient surety, in an amount equal to the development fee calculated by the Director to be due, a building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval of new development, which is necessary for the developer to establish an actual land use on a property may be issued to the new development, pending the outcome of the appeal.
- (b) **Hearing on the appeal.** The Community Manager or hearing officer shall set the appeal for hearing and shall notify the applicant in writing of the date, time, and location of the hearing.
 - (c) **Burden of proof.** The appellant has the burden of proof to demonstrate that the decision of the Director or other Community official is erroneous, based on the terms of this Article, the Community Constitution, or other applicable law.
 - (d) **Decision.**
 - (i) The Community Manager or hearing officer must:
 - (a) Determine whether there is an error in an order, Article requirement, or decision of a Community official in the enforcement of this Article; and/or
 - (b) Based on the information provided, reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Community official appealed, and make such order, requirement, decision, or determination as necessary, including recommending amendments to the provisions of this Article to the Council.
 - (ii) The Community Manager or hearing officer must render a decision on the appeal within sixty (60) calendar days after the receipt by the Community executive secretary of the appeal application form.
 - (iii) Should the appeal result in a determination that development

fees paid should be refunded in whole or in part to the applicant, the written decision of the Community Manager or hearing officer shall so indicate and shall direct appropriate Community staff to make the refund consistent with the final decision.

- (iv) Should the appeal be rejected, any development fees not paid, but secured by bond or other surety, shall be paid in full within thirty (30) calendar days of the written decision of the Community Manager or hearing officer, unless the written decision provides otherwise. If all development fees owed pursuant to the final decision are not paid within 30 calendar days, the Community may draw an amount of the bond funds equal to the amount of development fees owed. The availability of this remedy does not preclude the Community from seeking or enforcing any other lawful remedy necessary to enforce the provisions of this Article.

Sec. 17-272. Violation, Penalty

When required to provide information pursuant to this Article, all Persons shall act in good faith and provide correct and accurate information. Furnishing false information to any official or agent of the Community charged with the administration of this Article on any matter relating to the administration of this Article, including without limitation the furnishing of materially false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this Article. Any person, firm, or corporation that violates any of the provisions of this Article shall be guilty of a misdemeanor. Persons determined to have falsified information to any official or agent of the Community shall be fined in an amount not to exceed five thousand dollars (\$5,000.00) and may have their SRP-MIC Business License revoked. Firms or corporations or other entities determined to have falsified information to an official or agent of the Community shall be fined not to exceed twenty thousand dollars (\$20,000.00). Each violation shall be considered a separate offense, and fined as described above.

Conflict

Where conflict exists between this ordinance and any other ordinance or part of an ordinance, the provisions of this ordinance shall prevail.

Severability

If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

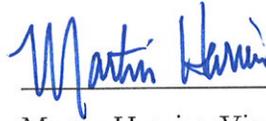
Effective Date

This ordinance shall become effective June 1, 2009.

C E R T I F I C A T I O N

Pursuant to the authority contained in Article VII of the Constitution of the Salt River Pima-Maricopa Indian Community (as amended), ratified by the Community on February 28, 1990, and approved by the Secretary of the Interior on March 19, 1990, the foregoing resolution was adopted this 13th day of May, 2009, in a duly called meeting of the Community Council at Salt River/Lehi, Arizona, at which a quorum of 8 members was present, by a vote of 8 for; 0 opposed; 0 abstaining; and 1 excused.

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL**



Martin Harvier, Vice President

ATTEST:



Erica Harvier, Council Secretary

