

ORDINANCE NO. 2014-1

“YAVAPAI COUNTY ROADWAY DEVELOPMENT FEE ORDINANCE”

The Yavapai County Board of Supervisors finds and declares that:

1. New development within the unincorporated areas of Yavapai County will create a need for new and increased capacity of roadway facilities.
2. New development should pay a proportionate share of the cost of improving and expanding the roadway system and facilities to accommodate the new development.
3. Regional and Subregional roadway benefit area plans should be prepared to project future roadway needs.
4. Travel behavior is wide-ranging, diffuse, and inter-related.
5. Regional and Subregional roadway benefit area plans provide a rational nexus for the computation of development fees which are in rough proportionality to the roadway infrastructure needs to serve new development.
6. Development fees are an equitable and appropriate way to help finance the transportation infrastructure needed to serve new development.
7. Adoption of development fees authorized by A.R.S. 11-1102 is the most appropriate and equitable method to assure that Yavapai County has the financial ability to continue to provide adequate roadways for all residents of the unincorporated areas of Yavapai County.

I. GENERAL PROVISIONS

A. Legislative Intent and Purpose

This Ordinance is adopted for the purpose of promoting the health, safety, and general welfare of the residents of Yavapai County by:

1. Requiring new development to pay its proportionate share of the costs to Yavapai County associated with providing necessary public services to the development.
2. Setting forth standards and procedures for assessing development fees and administering the development fee program.

B. Definitions

In this Ordinance, unless the context requires otherwise:

1. “Building Permit” means the permit required for construction as determined pursuant to Planning and Zoning Ordinance and the adoptive ordinance for the Building Code. The term “Building Permit” shall not include a permit required for reconstruction of a structure if the reconstruction does not reflect a change in the number of dwelling units applicable to the development. If the reconstruction increases the number of dwelling units applicable to the development, the regional and subregional development fees for roadways shall be based upon the amount of the increase. For the purposes of this ordinance, the term “Building Permit” shall include the permit or approval required from Yavapai County for the placement and occupancy of a mobile home or manufactured home (as defined in Section 301 of the Yavapai County Planning and Zoning Ordinance), multisectional manufactured home (as defined in Section 301 of the Yavapai County Planning and Zoning Ordinance) or factory-built building (modular). For the purposes of this Ordinance, the term “Building Permit” shall include a zoning clearance.

2. “Development Agreement” means an agreement between Yavapai County and either a community facilities district pursuant to A.R.S. § 48-709, Subsection C, a landowner or any other person having an interest in real property that may specify or is otherwise related to any of the following:
 - (a) The duration of the agreement.
 - (b) The permitted uses of property subject to the development agreement.
 - (c) The density and intensity of uses and the maximum height and size of proposed buildings within such property.
 - (d) Provisions for reservation or dedication of land for public purposes and provisions to protect environmentally sensitive lands.
 - (e) Provisions for preservation and restoration of historic structures.
 - (f) The phasing or time of construction or development on property subject to the agreement.
 - (g) Conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure and subsequent reimbursements over time.

- (h) Conditions, terms, restrictions and requirements relating to the governing body's intent to form a special taxing district pursuant to Title 48.
 - (i) Conditions of sewer service.
 - (j) Any other matters relating to the development of the property.
3. "Dwelling Unit" means a single family residence, park models, each dwelling in multi-family structure, each time-share unit, and each room to be occupied in a hotel, motel, or resort.
 4. "New Development" means the construction of any dwelling unit for which a Building Permit is required including construction of any replacement dwelling unit which is commenced more than 36 months following the destruction or removal of a dwelling unit on the site on which the replacement dwelling unit is being constructed.
 5. "BAP" means roadway benefit area plan.
 6. "SRBAP" means subregional roadway benefit area plan.
 7. "Subregion" or "subregional" refers to a geographic area encompassed within a specific benefit area plan and corresponding to a subregion designated in the Yavapai County General Plan, or such geographic area as the Board of Supervisors may designate.

C. Applicability

This Ordinance shall apply to all New Development within any region or subregion of Yavapai County for which a regional or subregional Roadway Development Fee has been adopted.

II. PROCEDURES FOR ADOPTION OF ROADWAY DEVELOPMENT FEES

A. Roadway Development Fee Projects Plan

The Yavapai County Roadway Development Fee Projects Plan shall be a component of Yavapai County's Regional Road Capital Improvement Plan (RRCIP). All proposed expenditures for roadway projects funded or to be funded with Roadway Development Fees in the current fiscal year and at least the four fiscal years thereafter shall be identified in the RRCIP. As RBAP's and SRBAP's are recorded, the capital roadway improvements identified in the RBAP and SRBAP to be funded with Roadway Development Fees shall be included in the RRCIP.

B. Regional and Subregional Roadway Needs Assessment

Before or in conjunction with the creation of a BAP and SRBAP, the Yavapai County Public Works Department shall conduct a needs assessment for roadways within the region and subregion which are found in the Roadway Development Fee Projects Plan. The needs assessment shall determine the projected new regional road project improvements due to New Development in the benefit area.

C. Roadway Benefit Area Plan (BAP)

Before assessment of a Roadway Development Fee the County Public Works Department shall create a BAP for the region or subregion in which a Roadway Development Fee will be assessed. Each BAP shall:

1. Identify capital roadway improvements needed or existing within the twenty-year period immediately following the adoption of the BAP to serve the anticipated future development of the area, considering the Yavapai County General Plan, The Central Yavapai County Transportation Plan, The Verde Valley Transportation Plan, and other pertinent transportation plans.
2. Identify the actual public facilities capital costs or reasonable estimates of capital costs incurred or to be incurred on projects any portion of which are to be funded with development fees within the twenty-year period immediately following the adoption of the BAP.
3. Include an analysis of the extent to which the costs of identified improvements might be funded from sources other than Roadway Development Fees.
4. Be reviewed annually and amended as necessary to update the estimates of capital roadway improvement needs, cost, and the amount of the Roadway Development Fee. Any revisions to the region's roadway development fee shall not be applied retroactively to parties whose Fees have already been paid.

D. Recoupment of Costs of Excess Capacity

A Roadway Development Fee may include an amount designated for recoupment by the County of costs of excess capacity in existing roadways identified in a BAP to the extent that development subject to the Roadway Development Fee is served by such existing roadways.

E. Consideration of New or Increased Roadway Development Fees; Requirements

Prior to consideration of a new or increased Roadway Development Fee, the County shall:

1. Give at least one hundred twenty days' advance notice of intention to assess a new or increased development fee.
2. Prepare and make available to the public a written report containing all data upon which the proposed new or increased Fee is based, including, but not limited to, any Needs Assessment and/or BAP prepared pursuant to this Ordinance.
3. Conduct a public hearing of the Board of Supervisors on the proposed new or increased Roadway Development Fee at any time after the expiration of one hundred twenty day notice of intention to assess a new or increased Roadway Development Fee and at least 14 days prior to the adoption of the new or increased Fee.

F. Assessment of New or Increased Roadway Development Fee; Requirements.

Prior to assessment of a new or increased Roadway Development Fee, the Board of Supervisors shall:

1. Approve the written report, referenced in Subsection II (E) (2) of this Ordinance, upon which the proposed new or increased Fee is based.
2. Approve the new or increased Fee in the amount proposed or in such other amount as the Board may deem appropriate based on the information presented in the written report and other pertinent information.

G. New or Increased Roadway Development Fee; Effective Date

A new or increased Roadway Development Fee assessed pursuant to this Ordinance is not effective for at least ninety days after its approval by the Board of Supervisors.

H. Recordation of Benefit Area Plan

Upon approval of a new or increased Roadway Development Fee, the BAP upon which the new or increased fee is based shall be recorded in the Office of the Yavapai County Recorder.

III. ADMINISTRATIVE PROVISIONS

A. Credits

Parties subject to assessment of a Roadway Development Fee pursuant to this Ordinance shall be entitled to credits against such Fee as provided by A.R.S. §11-1102.

B. Application of Roadway Development Fees

Each new development subject to assessment of a Roadway Development Fee pursuant to this Ordinance shall pay the full amount of the fee established by the Board of Supervisors except motels, hotels, and resorts. Motels, hotels, and resorts shall pay half (1/2) the established Fee for each room to be occupied.

C. Administration of Roadway Development Fees

1. The Roadway Development Fee program shall be administered by the Yavapai County Administrator or such persons or departments as designated by the Yavapai County Administrator.
2. Roadway Development Fees shall be collected at the time the building permit is issued by the Development Services Department, or as may otherwise be provided for in a Development Agreement.
3. The Yavapai County Development Services Department shall be responsible for collecting and accounting for Roadway Development Fees adopted pursuant to this ordinance. Fees shall be accounted for in a fund that clearly identifies the BAP for which the fee was imposed and the parcel for which the fee was collected. Fees shall be invested with all interest accruing to the fund.
4. Yavapai County Public Works Department shall retain copies of all Needs Assessments, BAPs and any other data sources on which the assessment of the Roadway Development Fee is based, and shall make such information available to the public on request.
5. Roadway Development Fees and any interest accrued on them shall be spent for capital roadway improvements that provide a beneficial use to the development that paid the fee, including debt service and administrative costs that relate to such improvements.

D. Appeals and Refunds; Procedures

1. Right to Appeal. A party who has paid a Roadway Development Fee may appeal for a refund of all or a portion of the fee by filing an application with the Development Services Department for refund within thirty days after payment of the fee.
2. Application for Appeal.
 - A. An appeal application shall, at a minimum, contain the following:
 - An appeal cover sheet on a form provided by the Yavapai County Development Services Department.
 - A legal description of the subject property.
 - A list, by name and title, of all ownership interests in the subject property (e.g., individual, corporation, trust, or limited partnership).
 - A letter of authorization for any agent authorized to represent the owner(s) of the subject property.
 - Data specific to the development sufficiently detailing the technical basis for the appeal.
 - A receipt or other evidence that the development fee being appealed has been paid.
 - A request for a hearing before the Board of Supervisors if desired.
 - B. Incomplete applications shall not be processed.
3. Appeal to Board of Supervisors. An Appellant may request a hearing on the application for appeal before the Board of Supervisors. The hearings shall be held not more than 45 days after submittal of the request. The appellant shall be given notice of the date, time, and location of the hearing as soon as practicable after the submittal of the request, and in any event, not less than five days before the hearing. Factual and technical evidence may be submitted on the appellant's behalf at the hearing. The Board may take whatever action with respect to the appeal as it deems appropriate.
4. Waiver of Procedural Requirements by Appellant. An appellant may provide a written waiver of one or more procedural requirements contained in this section.
5. Calculation of Time. In computing any period of time prescribed or allowed by this title, the day of the act or event from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than eleven days,

intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

6. Basis for Decision. The Board shall authorize a refund of all or a portion of the Roadway Development Fee paid if it determines that the capital roadway improvements to be funded with the fee do not provide a benefit to the development, or if it determines that the benefit received is less than was identified when the fee was adopted or last modified, or if the credit given is determined to be insufficient.

E. Infrastructure not included in BAP

This Ordinance shall not limit Yavapai County's authority to disapprove any New Development which the County determines to require the construction of infrastructure not included in a BAP or to approve New Development conditioned upon the developer providing for such infrastructure.

F. Notification in Real Estate Closing Documents

Real estate closing documents involving a parcel of land or improvements for which a development fee has been assessed or paid within five years of the closing shall include a written notification of the fact that a development fee has been assessed or paid and the location of a public office where information in regard to the rights and obligations arising from the assessment or payment of the fee can be obtained.

G. Waiver of Fee

The Board of Supervisors may waive from Roadway Development Fee programs particular types and locations of development that are determined to serve an overriding public interest, provided that the waiver does not result in an increase in the development fee for other properties in the BAP.

H. Prior Ordinances, Resolutions, Rules or Regulations Repealed

This Ordinance repeals Ordinance 2006-01 and any other ordinance, resolution, rule or regulation, or portion thereof, which conflicts with this Ordinance

I. Effective Date

This Ordinance shall be effective as of February 3, 2014.

PASSED AND ADOPTED this 3rd day of February, 2014, by the Yavapai County Board of Supervisors.

/s/ Rowle P. Simmons

Rowle P. Simmons, Chairman
Yavapai County Board of Supervisors

ATTEST:

/s/ Ana Wayman-Trujillo

Ana Wayman-Trujillo
Clerk of the Board