

**Executive Summary of
Capital Improvements Program for New Growth and
Development Fee Study**

Prepared for:



May 24, 2006

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Overview

Pinal County has contracted with TischlerBise to calculate a capital improvements program (CIP) and resulting development fees for parks, public safety, and streets for unincorporated portions of the County. In addition to this Executive Summary, there four documents:

- *Demographic Estimates and Development Projections* (produced in conjunction with Dennis Zwagerman and Associates).
- *Parks Capital Improvements Program for New Growth and Development Fee Study.*
- *Public Safety Capital Improvements Program for New Growth and Development Fee Study.*
- *Streets Capital Improvements Program for New Growth and Development Fee Study.*

Development Fee Requirements

U.S. Constitutional Requirements

Like all land use regulations, development exactions, including development fees, are subject to the Fifth Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of development fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against regulatory takings. To comply with the Fifth Amendment, development regulations must be shown to substantially advance a legitimate governmental interest. In the case of development fees, that interest is in the protection of public health, safety, and welfare by ensuring that development is not detrimental to the quality of essential public services.

There is little federal case law specifically dealing with development fees, although other rulings on other types of exactions (e.g. land dedication requirements) are relevant. In one of the most important exaction cases, the U. S. Supreme Court found that a government agency imposing exactions on development must demonstrate an "essential nexus" between the exaction and the interest being protected (See *Nollan v. California Coastal Commission*, 1987). In a more recent case (*Dolan v. City of Tigard*, OR, 1994), the Court ruled that an exaction also must be "roughly proportional" to the burden created by development. However, the *Dolan* decision appeared to set a higher standard of review for mandatory dedications of land than for monetary exactions such as development fees.

These constitutional requirements of development fees are commonly referred to as "rational nexus" test. The rational nexus test has three elements:

Demand – a particular type of development demands a particular type of infrastructure.

Proportionality – the fees are proportionate to the demand created by development for infrastructure.

Benefit – The payer of the development fee must receive a benefit (i.e. the construction of infrastructure which accommodates their impact on a community’s capital facilities and assets).

State Requirements

Many of these constitutional concerns are echoed in the state enabling legislation for counties to assess development fees. Development fees for counties in Arizona are authorized by Arizona Revised Statutes (A.R.S.) 11-102. Specifically:

A. If a county has adopted a capital improvements plan, the county may assess development 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 fees assessed under this section are subject to the following requirements:

- 1. Development fees shall result in a beneficial use to the development.*
- 2. Monies received from development 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 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 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 fee.

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

6. In determining and assessing a development 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 fee based on the infrastructure or costs.

C. Before assessing or increasing a 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. Release to the public a written report including all documentation that supports the assessment of a new or increased development fee.

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

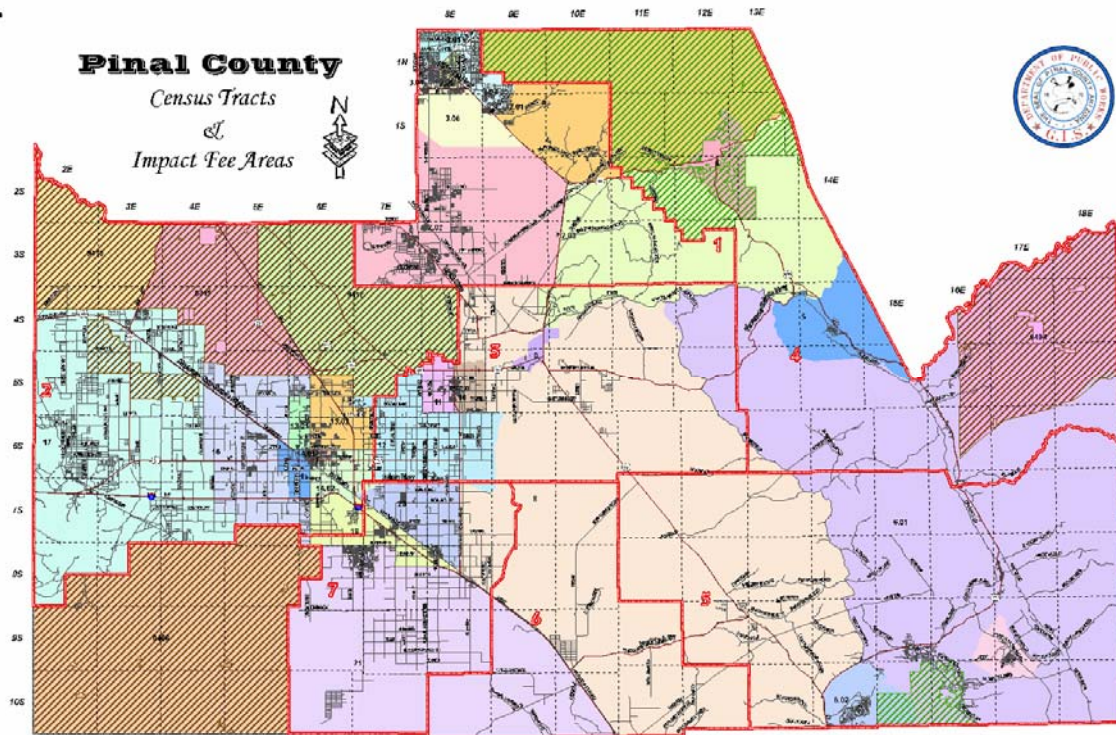
D. A development fee assessed pursuant to this section is not effective for at least ninety days after its formal adoption by the board of supervisors.

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

Impact Fee Areas (IFA's)

To better plan, coordinate, and finance the planned infrastructure demanded by new development, the County has established seven impact fee areas shown in Figure 1 below.

Figure 1: Pinal County Impact Fee Areas



To better meet the benefit requirements of the rational nexus test and state law, TischlerBise recommends the County collect and expend the development fees according to these seven impact fee areas with a handful of exceptions for centralized pieces of infrastructure or infrastructure networks that encompass several IFA's (these exceptions are noted in each CIP and development fee report).

These zones are used to document where in the County the development fee revenues are coming from and where capital projects for new growth will be provided. The collection and expenditures zone map in Figure 1 is provided to give the reader a general indication of the IFA boundaries. Larger, detailed maps will be maintained by the County.

CIP and Development Fee Report Format

Each CIP and development fee report contains the following elements:

- Description of the infrastructure components included in the CIP and development fee.

- Discussion of the factors from new growth that create demand for additional infrastructure. This includes an analysis of whether the demand is the result of new residential and/or nonresidential development. This analysis also describes whether the demand is the result of new development in the incorporated and/or unincorporated areas of the County.
- Proportionate share analysis, LOS analysis, and cost standards used to calculate the CIP and subsequent development fees for each component.
- Capital improvements plan for new growth for each component including the amount of capital improvements and the planned costs (this is discussed in more detail below).
- Development fee calculations for each component for each IFA.
- Cash flow analysis of projected development fee revenues and planned capital expenditures for each IFA.

CIP

In accordance with state law, CIP's have been prepared for each development fee category that include projects that are the result of new growth (Note: these CIP's do not include projects related to routine maintenance and replacement of existing capital facilities and assets, nor does it include projects which solely address existing capacity deficiencies). The CIP's show that the capital facilities are a consequence of new development; that the fees are proportionate and reasonably related to the capital facility service demands of new development; and that development fees will substantially benefit new development. The County can use this information to update its CIP as needed in order to ensure the requirements of state law are met. All costs in the development fee calculations are given in current dollars with no assumed inflation rate over time.

To calculate the CIP for each component, TischlerBise evaluated three methodologies:

- Plan-based methodology – This methodology utilizes plans which the County has already adopted. Examples of this include the *Pinal County Trails Plan*, *Pinal County Small Area Transportation Study*, and the *Radio Communications Development Plan for Pinal County*.
- Incremental expansion – Under this approach, the County plans to extend to new development the LOS it is currently providing to existing development. The development fees are used to fund the extension of the current LOS to new development. This methodology is used for the majority of the CIP calculations.
- Buy-in – This methodology is used for infrastructure or assets which the County has oversized in anticipation of new growth and plans to repay new growth's share of the oversized infrastructure with development fees. This methodology is used for the detention center expansion and fairgrounds.

CIP and Development Fee Components

Figure 2 lists the CIP and development fee categories and summarizes the components for each category.

Figure 2: Development Fee Categories and Components

<p>Parks CIP and Development Fees</p> <ul style="list-style-type: none"> Land and improvements for regional parks. Trails. Fairgrounds. Support vehicles and equipment.
<p>Public Safety CIP and Development Fees</p> <ul style="list-style-type: none"> Sheriff and Justice Court facilities. Detention Center expansion. Sheriff's vehicles. Public safety vehicles. Public safety communications equipment.
<p>Streets CIP and Development Fees</p> <ul style="list-style-type: none"> Arterials streets. Support facilities. Support vehicles and equipment.

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Schedule of Development Fees

Figure 3 provides a summary schedule of development fees for unincorporated Pinal County. In order to better meet the requirements of rational nexus and state law, TischlerBise recommends the County collect and expend these funds based on the impact fee areas (IFA's) in Figure 3. Development fees for residential development will be assessed per housing unit and nonresidential development fees will be assessed per square foot of floor area or per hotel room. The County may adopt fees that are less than the amounts shown. However, a reduction in development fee revenue will necessitate an increase in other revenues, or a decrease in planned capital expenditures.

Figure 3: Schedule of Development Fees by Impact Fee Areas for Unincorporated Pinal County

	IFA 1				IFA 2				IFA 3			
		Public				Public				Public		
	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL
Residential (per unit)												
Single Family Detached	\$290	\$958	\$7,850	\$9,097	\$290	\$958	\$7,918	\$9,165	\$290	\$958	\$6,917	\$8,164
All Other Types of Housing	\$135	\$445	\$4,093	\$4,673	\$135	\$445	\$4,128	\$4,708	\$135	\$445	\$3,607	\$4,187
Nonresidential (per square foot/hotel room)												
Commercial / Shopping Center 25,000 SF or less	N/A	\$1.38	\$26.26	\$27.64	N/A	\$1.38	\$26.48	\$27.86	N/A	\$1.38	\$23.26	\$24.64
Commercial / Shopping Center 25,001-50,000 SF	N/A	\$1.20	\$22.81	\$24.01	N/A	\$1.20	\$23.00	\$24.20	N/A	\$1.20	\$20.21	\$21.41
Commercial/Shopping Center 50,001-100,000 SF	N/A	\$1.00	\$19.05	\$20.05	N/A	\$1.00	\$19.21	\$20.21	N/A	\$1.00	\$16.87	\$17.87
Commercial/Shopping Center 100,001-200,000 SF	N/A	\$0.86	\$16.30	\$17.16	N/A	\$0.86	\$16.44	\$17.30	N/A	\$0.86	\$14.44	\$15.30
Commercial/Shopping Center over 200,000 SF	N/A	\$0.73	\$13.86	\$14.59	N/A	\$0.73	\$13.97	\$14.70	N/A	\$0.73	\$12.27	\$13.00
Office 10,000 SF or less	N/A	\$0.51	\$10.53	\$11.04	N/A	\$0.51	\$10.53	\$11.04	N/A	\$0.51	\$9.32	\$9.83
Office 10,001-25,000 SF	N/A	\$0.41	\$8.53	\$8.94	N/A	\$0.41	\$8.53	\$8.94	N/A	\$0.41	\$7.54	\$7.95
Office 25,001-50,000 SF	N/A	\$0.35	\$7.27	\$7.62	N/A	\$0.35	\$7.27	\$7.62	N/A	\$0.35	\$6.43	\$6.78
Office 50,001-100,000 SF	N/A	\$0.30	\$6.20	\$6.50	N/A	\$0.30	\$6.20	\$6.50	N/A	\$0.30	\$5.48	\$5.78
Office 100,000 SF	N/A	\$0.25	\$5.28	\$5.53	N/A	\$0.25	\$5.28	\$5.53	N/A	\$0.25	\$4.67	\$4.92
Business Park	N/A	\$0.28	\$5.93	\$6.21	N/A	\$0.28	\$5.93	\$6.21	N/A	\$0.28	\$5.25	\$5.53
Light Industrial	N/A	\$0.16	\$3.24	\$3.40	N/A	\$0.16	\$3.24	\$3.40	N/A	\$0.16	\$2.86	\$3.02
Warehousing	N/A	\$0.11	\$2.30	\$2.41	N/A	\$0.11	\$2.30	\$2.41	N/A	\$0.11	\$2.04	\$2.15
Manufacturing	N/A	\$0.09	\$1.77	\$1.86	N/A	\$0.09	\$1.77	\$1.86	N/A	\$0.09	\$1.57	\$1.66
Hotel (per room)	N/A	\$126	\$2,618	\$2,743	N/A	\$126	\$2,618	\$2,743	N/A	\$126	\$2,316	\$2,442

	IFA 4				IFA 5				IFA 6			
		Public				Public				Public		
	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL	Parks	Safety	Streets	TOTAL
Residential (per unit)												
Single Family Detached	\$290	\$958	\$5,967	\$7,214	\$290	\$958	\$7,173	\$8,420	\$290	\$958	\$7,173	\$8,420
All Other Types of Housing	\$135	\$445	\$3,111	\$3,691	\$135	\$445	\$3,740	\$4,320	\$135	\$445	\$3,740	\$4,320
Nonresidential (per square foot/hotel room)												
Commercial / Shopping Center 25,000 SF or less	N/A	\$1.38	\$20.21	\$21.59	N/A	\$1.38	\$24.08	\$25.46	N/A	\$1.38	\$24.08	\$25.46
Commercial / Shopping Center 25,001-50,000 SF	N/A	\$1.20	\$17.56	\$18.76	N/A	\$1.20	\$20.92	\$22.12	N/A	\$1.20	\$20.92	\$22.12
Commercial/Shopping Center 50,001-100,000 SF	N/A	\$1.00	\$14.66	\$15.66	N/A	\$1.00	\$17.47	\$18.47	N/A	\$1.00	\$17.47	\$18.47
Commercial/Shopping Center 100,001-200,000 SF	N/A	\$0.86	\$12.55	\$13.41	N/A	\$0.86	\$14.95	\$15.81	N/A	\$0.86	\$14.95	\$15.81
Commercial/Shopping Center over 200,000 SF	N/A	\$0.73	\$10.66	\$11.39	N/A	\$0.73	\$12.71	\$13.44	N/A	\$0.73	\$12.71	\$13.44
Office 10,000 SF or less	N/A	\$0.51	\$8.08	\$8.59	N/A	\$0.51	\$9.65	\$10.16	N/A	\$0.51	\$9.65	\$10.16
Office 10,001-25,000 SF	N/A	\$0.41	\$6.55	\$6.96	N/A	\$0.41	\$7.81	\$8.22	N/A	\$0.41	\$7.81	\$8.22
Office 25,001-50,000 SF	N/A	\$0.35	\$5.58	\$5.93	N/A	\$0.35	\$6.66	\$7.01	N/A	\$0.35	\$6.66	\$7.01
Office 50,001-100,000 SF	N/A	\$0.30	\$4.76	\$5.06	N/A	\$0.30	\$5.68	\$5.98	N/A	\$0.30	\$5.68	\$5.98
Office 100,000 SF	N/A	\$0.25	\$4.05	\$4.30	N/A	\$0.25	\$4.84	\$5.09	N/A	\$0.25	\$4.84	\$5.09
Business Park	N/A	\$0.28	\$4.55	\$4.83	N/A	\$0.28	\$5.43	\$5.71	N/A	\$0.28	\$5.43	\$5.71
Light Industrial	N/A	\$0.16	\$2.48	\$2.64	N/A	\$0.16	\$2.97	\$3.13	N/A	\$0.16	\$2.97	\$3.13
Warehousing	N/A	\$0.11	\$1.77	\$1.88	N/A	\$0.11	\$2.11	\$2.22	N/A	\$0.11	\$2.11	\$2.22
Manufacturing	N/A	\$0.09	\$1.36	\$1.45	N/A	\$0.09	\$1.62	\$1.71	N/A	\$0.09	\$1.62	\$1.71
Hotel (per room)	N/A	\$126	\$2,010	\$2,135	N/A	\$126	\$2,399	\$2,525	N/A	\$126	\$2,399	\$2,525

	IFA 7			
		Public		
	Parks	Safety	Streets	TOTAL
Residential (per unit)				
Single Family Detached	\$290	\$958	\$7,173	\$8,420
All Other Types of Housing	\$135	\$445	\$3,740	\$4,320
Nonresidential (per square foot/hotel room)				
Commercial / Shopping Center 25,000 SF or less	N/A	\$1.38	\$24.08	\$25.46
Commercial / Shopping Center 25,001-50,000 SF	N/A	\$1.20	\$20.92	\$22.12
Commercial/Shopping Center 50,001-100,000 SF	N/A	\$1.00	\$17.47	\$18.47
Commercial/Shopping Center 100,001-200,000 SF	N/A	\$0.86	\$14.95	\$15.81
Commercial/Shopping Center over 200,000 SF	N/A	\$0.73	\$12.71	\$13.44
Office 10,000 SF or less	N/A	\$0.51	\$9.65	\$10.16
Office 10,001-25,000 SF	N/A	\$0.41	\$7.81	\$8.22
Office 25,001-50,000 SF	N/A	\$0.35	\$6.66	\$7.01
Office 50,001-100,000 SF	N/A	\$0.30	\$5.68	\$5.98
Office 100,000 SF	N/A	\$0.25	\$4.84	\$5.09
Business Park	N/A	\$0.28	\$5.43	\$5.71
Light Industrial	N/A	\$0.16	\$2.97	\$3.13
Warehousing	N/A	\$0.11	\$2.11	\$2.22
Manufacturing	N/A	\$0.09	\$1.62	\$1.71
Hotel (per room)	N/A	\$126	\$2,399	\$2,525

A note on rounding: Calculations throughout this report are based on analysis conducted using Excel software. Results are discussed in the report using one-and two-digit places (in most cases), which represent rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to the rounding of figures shown, not due to rounding in the analysis).

Implementation and Administration

As specified in A.R.S. 11-102, there are certain accounting requirements that must be met by the County:

Monies received from development 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.

Additionally, the County will have to maintain a separate fund for each of the seven IFA's in order to account for where development fee revenues are coming from and which dollars are being used to construct capital projects that are the result of new growth. This will ensure that new development receives a substantial benefit from the development fees.

All costs in the development fee calculations are given in current dollars with no assumed inflation rate over time. Necessary cost adjustments can be made as part of the recommended annual evaluation and update of development fees. One approach is to adjust for inflation in construction costs by means of an index like the one published by Engineering News Record (ENR). This index could be applied against the calculated development fee. If cost estimates change significantly the County should redo the fee calculations.

Residential development categories are based on data from the 2000 U.S. Census Summary File 3 for Pinal County. Specifically:

Single Family Detached – units in structure: 1-detached, owner and renter occupied.

All Other Types of Housing – units in structure: units in structure: 2, 3 - 4, 5 – 9, 10 – 19, 20 – 49, 50 or more, mobile homes, other; owner and renter occupied.

Nonresidential development categories are based on land use classifications from the *Trip Generation Manual* (ITE, 2003). A summary description of each development category is provided below.

Shopping Center (820) – A shopping center is an integrated group of commercial establishments that is planned, developed, owned and managed as a unit. A shopping center provides on-site parking facilities sufficient to serve its own parking demands. Shopping centers may contain non-merchandizing facilities, such as office buildings, movie theaters, restaurants, post offices, banks, health clubs and recreational facilities. In addition to the integrated unit of shops in one building or enclosed around a mall, many shopping centers include out-parcels. For smaller centers without an enclosed mall or peripheral buildings, the Gross Leasable Area (GLA) may be the same as the Gross Floor Area (GFA) of the building.

General Office (710) – A general office building houses multiple tenants including, but not limited to, professional services, insurance companies, investment brokers and tenant services such as banking, restaurants and service retail facilities. In the development fees study, this category is used as a proxy for institutional uses that may have more specific land use codes.

Business Park (770) – Business parks consist of a group of flex-type buildings served by a common roadway system. The tenant space lends itself to a variety of uses, with the rear side of the building usually served by a garage door. The tenant space includes a variety of uses with an average mix of 20 to 30 percent office/commercial and 70 to 80 percent industrial/warehousing.

Light Industrial (110) – Light industrial facilities usually employ fewer than 500 persons and have an emphasis on activities other than manufacturing. Typical light industrial activities include, but are not limited to printing plants, material-testing laboratories and assembling of data processing equipment.

Warehousing (150) – Warehouses are primarily devoted to the storage of materials.

Manufacturing (140) – In manufacturing facilities, the primary activity is the conversion of raw materials or parts into finished products.

Hotel (320) – A place of lodging that provide sleeping accommodations and often a restaurant. They offer free on-site parking and provide little or no meeting space and few (if any) supporting facilities.

For development types not shown above, Pinal County staff may use the most appropriate rates from the ITE *Trip Generation Manual* or rates from approved local transportation studies or observed data.