

CHAPTER 8 BUILDING AND EXCAVATION

ARTICLE 8-1 BUILDING CODE

- 8-1-1 Adoption of Uniform Building Code
- 8-1-2 Must Conform to Zoning Ordinance
- 8-1-3 Violations
- 8-1-4 Public Entities
- 8-1-5 Standards and Specifications
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Section 8-1-1 Adoption of International Building Code<sup>1 2 3</sup>

Section 8-1-1 was repealed in its entirety and is superseded by the provisions of new Article 8-14.

Section 8-1-2 Must Conform to Zoning Ordinance

Whenever a building permit is issued and a building inspection performed, such building must conform to the provisions of the City of Coolidge, Zoning Code, in addition to the provisions of this chapter.

Section 8-1-3 Violations<sup>4</sup>

Section 8-1-3 was repealed in its entirety and is superseded by the provisions of new Article 8-14.

Section 8-1-4 Arizonans with Disabilities Act as it Applies to Public Entities

Standards and specifications set forth in Title 41, Chapter 9, Article 8, Arizona Revised Statutes (Arizonans with Disabilities Act), and its implementing rules, including "Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities" declared a public record by Resolution #97-01, as applying to public entities, are hereby adopted and incorporated as an amendment to the International Building Code adopted in Article 8-1 Building Codes of the City Code of the City of Coolidge and made part thereof as though fully set forth therein. Such standards and specifications shall apply to new construction and alterations and are not required in buildings or portions of existing buildings that do not meet the standards and specifications.

Section 8-1-5 Arizonans with Disabilities Act Standards and Specifications

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<sup>1</sup> AMENDED 8-1-1	<b>Ordinance 02-04</b>	<b>Adopted 6/10/02</b>
<sup>2</sup> AMENDED 8-1-1	<b>Ordinance 02-16</b>	<b>Adopted 11/12/02</b>
<sup>3</sup> REPEALED 8-1-1	<b>Ordinance 03-13</b>	<b>Adopted 11/10/03</b>
<sup>4</sup> REPEALED 8-1-3	<b>Ordinance 03-13</b>	<b>Adopted 11/10/03</b>

Standards and specifications set forth in Title 41, Chapter 9, Article 8, Arizona revised statutes (Arizonans with Disabilities Act), and its  
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implementing rules, including "Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities" declared a public record by Resolution #97-01, are hereby adopted and incorporated as an amendment to the International Building Code adopted in Article 8-1 Building Codes of the City Code of the City of Coolidge and made part thereof as though fully set forth therein. Such standards and specifications shall apply to new construction and alterations commenced after September 3, 1996.

Section 8-1-6 Arizonans with Disabilities Act Validity and/or Constitutionality

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the International Building Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions thereof.

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Article 8-2      PLUMBING CODE<sup>1 2</sup>

Article 8-2 was repealed in its entirety and is superseded by the provisions of new Article 8-14.

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<sup>1</sup> **AMENDED 8-2-1**

**Ordinance 02-04**

**Adopted 06/10/02**

<sup>2</sup> **REPEALED 8-2**

**Ordinance 03-13**

**Adopted 11/10/03**

Article 8-3      MECHANICAL CODE<sup>1 2</sup>

Article 8-3 was repealed in its entirety and is superseded by the provisions of new Article 8-14.

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<sup>1</sup> **AMENDED 8-3-1**

**Ordinance 02-04**

**Adopted 06/10/02**

<sup>2</sup> **REPEALED 8-3**

**Ordinance 03-13**

**Adopted 11/10/03**

Article 8-4      NATIONAL ELECTRICAL CODE<sup>1 2</sup>

Article 8-4 was repealed in its entirety and is superseded by the provisions of new Article 8-14.

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<sup>1</sup> **AMENDED 8-4-1**

**Ordinance 02-04**

**Adopted 06/10/02**

<sup>2</sup> **REPEALED 8-4**

**Ordinance 03-13**

**Adopted 11/10/03**

Article 8-5      ABATEMENT OF DANGEROUS BUILDING CODE

8-5-1      Adoption of Abatement of Dangerous Building Code  
 8-5-2      Violations

Section 8-5-1      Adoption of Abatement of Dangerous building

That certain code entitled "Uniform Code for the Abatement of Dangerous Buildings", 1997<sup>1</sup> Edition,\*\*\* as adopted by the International Conference of building Officials, except all provisions relating to administrative procedures other than mentioned under the headings Title and Purpose and Scope, is hereby adopted as the "Uniform Code for the Abatement of Dangerous buildings of the City of Coolidge" and made a part of this chapter the same as though said code was specifically set forth in full herein; and at least three copies of said code shall be filed in the office of the city clerk and kept available for public use and inspection.

Section 8-5-2      Violations

Any person, firm or corporation violating any of the provisions of the Abatement of Dangerous Building Code adopted under the terms of Section 8-5-1 is guilty of a misdemeanor.



Article 8-6 ADOPTION OF ADMINISTRATIVE CODE

That certain code entitled "Uniform Administrative Code", 1997<sup>1</sup> Edition, as adopted by the International Association of Plumbing and Mechanical Officials, is hereby adopted as the "Uniform Administrative Code of the City of Coolidge" and made a part of this chapter the same as though said code was specifically set forth in full herein and at least three copies of said code shall be filed in the office of the city clerk and kept available for public use and inspection. <sup>2</sup>

"The fee for each permit issued for residential construction shall be as set forth separately by Council Resolution".

Article 8-7 CABLE TELEVISION CODE<sup>3 4</sup>

Article 8-7 was repealed in its entirety and is superseded by the provisions of new Chapter 24 Cable Television Code.

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<sup>1</sup> AMENDED 8-6

Ordinance 02-04

Adopted 06/10/02

<sup>2</sup> AMENDED 8-6

Ordinance 02-16

Adopted 11/12/02

<sup>3</sup> AMENDED 8-7

Ordinance 06-16

Adopted 09/25/06

<sup>4</sup> REPEALED 8-7

Ordinance 19-26

Adopted 12/09/19

Article 8-8      EXCAVATIONS, ALTERATIONS AND CONSTRUCTION IN PUBLIC RIGHTS-OF-WAY; USE OF PUBLIC RIGHTS-OF-WAY

- 8-8-1      Applications to Director of Public Works - Permits
- 8-8-2      Applications to Council - Permits
- 8-8-3      Restoration
- 8-8-4      Right to Prohibit or Condition Issuance of Permits
- 8-8-5      Violations
- 8-8-6      No Pavement Cuts in New Streets

Section 8-8-1      Excavations or Alterations in Public Rights-of-way; Applications to Director of Public Works; Standards for permits; Restoration; Right to Prohibit or Condition Issuance of Permits

1.      Permit or License Required

It is unlawful for any person, except companies having franchises with the City, and except in the case of an emergency involving health and safety, to excavate or alter any street, sidewalk, alley or other right-of-way in the City without first obtaining a permit or license from the director of public works as hereinafter provided.

2.      Application for Permit or License<sup>1</sup>

A.      An applicant for a permit or license shall file with the Director of Public Works an application showing:

- i.      Name and address of applicant.
- ii.     Location of proposed excavation or alteration.
- iii.    Detailed drawings and specifications of proposed excavation or alteration.
- iv.     Estimated period of time of proposed excavation or alteration.
- v.      The cost of work for the proposed excavation or alteration.

B.      Every application shall include the payment of a fee equal to three percent (3%) of the cost of work set forth in the application plus \$20 per specification sheet. Fees shall be payable to the City.

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<sup>1</sup> AMENDED 8-8-1-(2)

- C. A company or business having a franchise with the City need not apply for a permit or a license, however, such company or business shall:
- i. Notify the Director of Public Works prior to the start of work (except in the case of an emergency involving health and safety).
  - ii. Comply with all blue stake and other applicable laws and regulations.
  - iii. Prior to commencing work, erect suitable barriers and warning devices, and provide sufficient light during the night time work to prevent injury to persons.
  - iv. Comply with Section 8-8-3.

3. Standards for Issuance of Permit or License

The director of public works shall issue a permit or license after determining that:

- A. the applicant's proposal will not unreasonably interfere with vehicular and pedestrian traffic;
- B. the applicant will erect suitable barriers, warning signs and provide sufficient light during the nighttime to prevent injury to persons, prior to commencing any work;
- C. the health, welfare and safety of the public will not be unreasonably injured or affected;
- D. the applicant will provide the City with proof of liability insurance, naming the City as an additional insured, in amounts determined by the director of public works to be appropriate, but not less than \$100,000 per person and \$300,000 per occurrence, and proof of property damage liability insurance in an amount determined by the director of public works to be appropriate to the circumstances described in the application;
- E. the applicant has agreed to indemnify and to save and hold the City harmless from any damage or liability arising out of the applicant's excavation or alteration; and
- F. the applicant has agreed to such other conditions deemed appropriate and necessary by the director of public works to protect the peace, health and safety of the public, including the posting of a security bond in an amount necessary to guarantee the cost of the applicant's compliance with permit or license

conditions and of the maintenance and restoration of the public right-of-way.

Section 8-8-2 Installation or construction of any structure in or on Public Rights-of-way; Applications to City Council; Standards for Permits; Restoration; Right to Prohibit or Condition Issuance of Permits.

1. Permit or License Required

It is unlawful for any person, except companies having franchises with the City, and except in the case of an emergency involving health and safety, to install or construct any structure in or on, or otherwise occupy, use or obstruct any street, sidewalk, alley or other right-of-way in the City without first obtaining a permit or license from the director of public works and the approval of the City Council as hereinafter provided.

2. Application for Permit or License<sup>1</sup>

- A. An applicant for a permit or license shall file with the Director of Public Works an application showing:
- i. Name and address of applicant.
  - ii. Location of proposed installation, construction or use.
  - iii. Detailed drawings and specifications of proposed installation, construction or use.
  - iv. Estimated period of time of proposed installation, construction or use.
  - v. The cost of work for the proposed installation, construction or use.
- B. Every application shall include the payment of a fee equal to three percent (3%) of the cost of work set forth in the application plus \$20 per specification sheet. Fees shall be payable to the City.
- C. The Director of Public Works shall review the application for compliance with the following standards and present it to the City Council for its approval or denial based upon the applicant's compliance with the following standards:
- i. The applicant's proposal will not unreasonably interfere with vehicular and pedestrian traffic.
  - ii. Prior to commencing any work, the applicant will erect suitable barriers, warning signs and

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<sup>1</sup> AMENDED 8-8-2(2)

provide sufficient light during the night time to prevent injury to persons.

- iii. The health, welfare and safety of the public will not be unreasonably injured or affected.
- iv. The applicant will provide the city with proof of liability insurance, naming the city as an additional insured, in amounts determined by the City Council to be appropriate, but not less than \$100,000 per person and \$300,000 per occurrence, and proof of property damage liability insurance in an amount determined by the City Council to be appropriate to the circumstances described in the application.
- v. The applicant has agreed to indemnify and to save and hold the City harmless from any damage or liability arising out of the applicant's excavation, alteration, installation, construction or use.
- vi. The applicant has agreed to such other conditions deemed appropriate and necessary by the City Council to protect the peace, health and safety of the public, including the posting of a security bond in an amount necessary to guarantee the cost of the applicant's compliance with permit or license conditions and of the maintenance and restoration of the public right-of-way.

Section 8-8-3 Restoration

All applicants who are issued a permit or a license shall at all times maintain the public right-of-way described in the permit or license, and ensure the removal of all debris, refuse and waste materials and, upon expiration of the permit or license, restore the public right-of-way to its condition prior to the issuance of the permit or license. If the applicant fails to maintain or restore the public right-of-way as required in this section, the appropriate maintenance or restoration may be completed by the /City, with the cost thereof assessed directly to the applicant. The City may also retain any bond or security posted by the applicant to offset the costs of such restoration.

Section 8-8-4 RIGHT TO PROHIBIT OR CONDITION ISSUANCE OF PERMIT OR LICENSE

Notwithstanding any provisions in this Article concerning the standards for issuing permits or licenses, the City Council may prohibit all excavations, alterations, construction, installations or other uses of the public rights-of-way in areas of the City, and may approve permits or licenses containing standards and conditions other than those described in the Article 8, when the City Council believes the same to be in the best interests of the public, or necessary to protect the peace, health and safety of the public. The City Council may also issue a permit or license of condition that it be revocable by the City at any time the City determines revocation to be in the best interests of the public or necessary to preserve the public peace, health and safety.

Section 8-8-5 Violations

The director of public works may investigate compliance by the applicant with the terms of the permit or license, with the provisions of this Article 8, and with any other pertinent provisions of the Code of the City of Coolidge. In the event that the director of public works finds any act of noncompliance, then the director shall notify the applicant, in writing, with that unless such violation is eliminated within 10 days from the date of the notice, the permit or license is subject to revocation by the City Council.

Notwithstanding this provision for notice of any violation, the City Council may revoke or terminate any permit or license at any time upon finding that the violation endangers the public peace, health or safety.

The City may retain any bond or security posted by the applicant as compensation and damages to the City for such violation, and may seek to recover any costs and damages incurred by the City from such violation in excess of any bond or security posted by the applicant.

Any person or entity who violates any provision of this article is guilty of a misdemeanor.

Section 8-8-6 No Pavement Cuts in New Streets<sup>1</sup>

1. A permit to excavate in new streets shall not be granted for two (2) years after completion of street construction, reconstruction or renovation (major rehabilitation), unless a valid Franchise Agreement contains a longer term. Utilities shall determine alternate methods of making necessary repairs to avoid excavating in new streets. Exceptions to the above are as follows:

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<sup>1</sup> ADDED 8-8-6

- (a) Emergency which endangers life or property.
- (b) Interruption of essential utility service.
- (c) Work that is mandated by city, county, state or federal legislation.
- (d) Service for buildings where no other feasible means of providing service exists.

For the purposes of the section, a street is considered "new" when it is first constructed, when it is reconstructed or when it is renovated. Renovation shall mean a major rehabilitation which shall include mill and overlay or other similar roadway improvement work that physically modifies the surface of the roadway prior to applying new roadway surface or other similar work as determined by the City Engineer. Reconstruction shall mean completely rebuilding all the lanes of the street by removing all the pavement and aggregate base course material, re-compacting the sub-base and restoring the base material and then completely re-paving for a distance approved by the City Engineer. The Director of Public Works or his designee shall determine the date of completion for new streets and the date each street was last reconstructed or renovated, based on the date the street was opened or reopened for traffic.

2. In addition to the obligation to restore the public right-of-way pursuant to Section 8-8-3, a condition of any street cut permit for cutting the pavement of a street within one (1) year of construction, reconstruction or renovation issued under subsections (a) through (d) above, shall be that the permittee renovate such street by mill and overlay/inlay, for a minimum of the full width of all lanes impacted by the cut(s) (outside lane includes to the curb) and for arterial streets extending a minimum length of fifty (50) feet both directions from the area of the cut(s) and for collector streets extending a minimum length of twenty-five (25) feet both directions from the area of the cut(s), all as more specifically directed by the City Engineer or his designee. Provided, however, for pavement cuts smaller than two (2) square feet, the requirement to renovate the street by mill and overlay/inlay shall not apply. All permits which are issued under subsections (a) through (d) above shall be in accordance with the Maricopa Association of Governments (MAG) standards.



Article 8-9        BUILDING OFFICIAL

The building official an administrative authority as such may be referenced in any section of this chapter for all matters pertaining to any building, plumbing, electrical or any other inspections shall be vested in the office of the city manager.

Article 8-10       BOARD OF APPEALS

In order to provide for the final interpretation of the provisions of the uniform codes and to hear appeals as provided for in said uniform codes, there is hereby established a board of appeals consisting of the mayor and council and any provision in said codes to the contrary shall have no force and effect and is hereby superseded by this article.

Article 8-11 DEVELOPMENT FEES<sup>1 2 3 4 5 6 7 8</sup>

8-11-1	Definitions
8-11-2	Purpose and Intent
8-11-3	Applicability
8-11-4	Authority for Development Impact Fees
8-11-5	Administration of Development Impact Fees
8-11-6	Land Use Assumptions
8-11-7	Infrastructure Improvements Plan
8-11-8	Adoption and Modification Procedures
8-11-9	Timing for Renewal and Updating of the Infrastructure Improvements Plan and Land Use Assumptions
8-11-10	Collection of Development Fees
8-11-11	Development Impact Fee Credits and Credit Agreements
8-11-12	Development Agreements
8-11-13	Appeals
8-11-14	Refunds of Development Impact Fees
8-11-15	Oversight of Development Impact Fee Program
Appendix	Development Fee Schedules

Section 8-11-1 Definitions

The words or phrases used herein shall have the meaning attributed or prescribed to them in the current Coolidge City Code except as may otherwise be indicated herein:

"Applicant" means any person who files an application with the City for a building permit.

"Appurtenance" means any fixed machinery or equipment, structure or other fixture, including integrated hardware, software or other components, associated with a Capital Facility that are necessary or convenient to the operation, use, or maintenance of a Capital Facility, but excluding replacement of the same after initial installation.

"Capital Facility" means an asset having a Useful Life of three or more years that is a component of one or more Categories of Necessary Public Service provided by the City. A Capital Facility may include any associated purchase of real property, architectural and engineering services leading to the design and construction of buildings and facilities, improvements to existing facilities, improvements to

<sup>1</sup> AMENDED 8-11-1	Ordinance 98-08	Adopted 07/13/98
<sup>2</sup> AMENDED 8-11-1 (B)	Ordinance 00-07	Adopted 07/24/00
<sup>3</sup> ADDED SECTION 8-11-13	Ordinance 04-02	Adopted 01/26/04
<sup>4</sup> REPLACED ARTICLE 8-11	Ordinance 04-08	Adopted 08/09/04
<sup>5</sup> AMENDED 8-11-5,6,7,8,9,10,11,12	Ordinance 05-18	Adopted 12/12/05
<sup>6</sup> AMENDED 8-11-1 (B)	Ordinance 09-02	Adopted 01/12/09
<sup>7</sup> REPLACED ARTICLE 8-11	Ordinance 11-17	Adopted 12/12/11
<sup>8</sup> REPLACED ARTICLE 8-11	Ordinance 14-06	Adopted 07/07/14

or expansions of existing facilities, and associated financing and professional services. Whenever used herein, "infrastructure" shall have the same meaning as "Capital Facilities".

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"Category of Development" means a specific category of residential, commercial, or industrial development against which a development impact fee is calculated and assessed.

"Category of Necessary Public Service" means a category of Necessary Public Service for which the City is authorized to assess development impact fees pursuant to A.R.S. §9-463.05, as further defined in Section 8-11-7(A)(1) of this Article.

"Connection" means the physical tie-in of an Applicant's sewer service to the City's sewer main.

"Credit" means a reduction in an assessed development impact fee resulting from developer contributions to, payments for, construction of, or dedications for capital facilities included in an Infrastructure Improvements Plan as permitted by Section 8-11-11 this Article.

"Credit Agreement" means a written agreement between the City and the developer(s) of Subject Development that allocates Credits to the Subject Development pursuant to this Article. A Credit Agreement may be included as part of a Development Agreement pursuant to Section 8-11-12 of this Article.

"Credit Allocation" means a term used to describe when Credits are distributed to a particular development or parcel of land after execution of a Credit Agreement, but are not yet issued.

"Credit Issuance" means a term used to describe when the amount of an assessed development impact fee attributable to a particular development or parcel of land is reduced by applying a Credit allocation.

"Developer" means an individual, group of individuals, partnership, corporation, limited liability company, association, municipal corporation, state agency, or other person or entity undertaking land development activity, and their respective successors and assigns.

"Development Agreement" means an agreement prepared in accordance with the requirements of Section 8-11-12 of this Article, Section 9-500.05, Arizona Revised Statutes, and any applicable requirements of the City Code.

"Direct Benefit" means a benefit to an EDU resulting from a Capital Facility that: (a) addresses the need for a Necessary Public Service created in whole or in part by the EDU; and that (b) meets either of the following criteria: (i) the Capital Facility is located in the immediate area of the EDU and is needed in the immediate area of the EDU to maintain the Level of Service; or (ii) the Capital Facility substitutes for, or eliminates the need for a Capital Facility that would have otherwise have been needed in the immediate area of the EDU to maintain the City's Level of Service.

"Dwelling Unit" or "Housing Unit" means a room or group of rooms within a building containing cooking accommodations and designed to be used for living purposes. Each apartment unit, mobile home or mobile home space, travel trailer or travel trailer space shall be considered a Dwelling Unit. Dwelling Unit shall not include those units designed primarily for transient occupant purposes, nor shall they include rooms in hospitals or nursing homes.

1. "Single-family Detached Dwelling Unit" means a Dwelling Unit designed and used only by one family and which unit is physically separated from any other Dwelling Unit.

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2. "All Other Dwelling Units" means a Dwelling Unit typically designed and used only for a single family, but which is either attached to another Dwelling Unit, such as an apartment, duplex, townhouse or single-family attached Dwelling Unit, or which is a mobile home, mobile home space, travel trailer or travel trailer spaces.

"Equipment" means machinery, tools, materials, and other supplies, not including vehicles, that are needed by a Capital Facility to provide the Level of Service specified by the Infrastructure Improvement Plan, but excluding replacement of the same after initial development of the Capital Facility.

"Equivalent Demand Unit (EDU)" means a unit of development within a Category of Development, defined in terms of a standardized measure of the demand that a unit of development in that Category of Development generates for Necessary Public Services in relation to the demand generated by a detached single-family Dwelling Unit. For all Categories of Necessary Public Services, the EDU factor for a detached single-family Dwelling Unit is one (1), while the EDU factor for a unit of development within another Category of Development is represented as a ration of the demand for each Category of Necessary Public Services typically generated by that unit as compared to the demand for such services typically generated by a detached single-family Dwelling Unit. An EDU shall be a "service unit" for purposes of paragraph T, subparagraph 10 of A.R.S. §9-463.05.

"Excluded Library Facility" means library facilities for which development fees may not be charged pursuant to A.R.S. §9-463.05, including that portion of any library facility that exceeds ten thousand (10,000) square feet, and Equipment, Vehicles or Appurtenances associated with the library.

"Excluded Park Facility" means park and recreational facilities for which development fees may not be charged pursuant to A.R.S. §9-463.05, including amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand (3000) square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, or zoo facilities.

"Fee Report" means a written report developed pursuant to A.R.S. §9-463.05 that identifies the methodology for calculating the amount of each development impact fee, explains the relationship between the development impact fee to be assessed and the Plan-Based Cost per Service Units calculated in the Infrastructure Improvements Plan, and which meets other requirements set forth in A.R.S. § 9-463.05.

"Financing or Debt" means any debt, bond, note, loan, interfund loan, fund transfer, or other debt service obligation used to finance the development or expansion of a Capital Facility.

"Fire Protection" means a Category of Necessary Public Services that includes fire stations, fire Equipment, fire Vehicles and all Appurtenances for fire stations. Fire Protection does not include Vehicles and Equipment used to provide administrative services, or helicopters or airplanes. Fire Protection does not include any facility that is used for training firefighters from more than one station or substation.

"General Plan" refers to the overall land-use plan for the City establishing areas of the City for different purposes, zones and activities, adopted pursuant to Arizona Revised Statutes Title 9, Chapter 4, Article 6, as amended, including specific plans, if any, any including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

"Grandfathered Facilities" means capital Facilities provided through Financing or Debt incurred before June 1, 2011 for which a development impact fee has been Pledged towards repayment as described in Section 8-11-4(C) of this Article.

"Gross Impact Fee" means the total development impact fee to be assessed against a Subject Development on a per unit basis, prior to subtraction of any Credits.

"Interim Fee Schedule" means any development impact fee schedule established prior to January 1, 2012 in accordance with then-applicable law, and which shall expire not later than August 1, 2014 pursuant to Section 8-11-10 of this Article.

"Infrastructure Improvement Plan" means a document or series of documents that meet the requirements set forth in A.R.S. §9-463.05, including those adopted pursuant to City Code to cover any Category or combination of Categories of Necessary Public Services.

"Land Use Assumptions" means projections of changes in land uses, densities, intensities and population for a Service Area over a period of at least ten years as specified in Section 8-11-6 of this Article.

"Level of Service" means a quantitative and/or qualitative measure of a Necessary Public Service that is to be provided by the City to development in a particular Service Area, defined in terms of the relationship between service capacity and service demand, accessibility, response times, comfort or convenience of use, or other similar measures or combinations of measures. Level of Service may be measured differently for different Categories of Necessary Public Services, as identified in the applicable Infrastructure Improvement Plan.

"Library Facilities" means a Category of Necessary Public Services in which literary, musical, artistic, or reference materials are kept (materials may be kept in any form of media such as electronic, magnetic or paper) for non-commercial use by the public in a facility providing a Direct Benefit to development. Libraries do not include Excluded Library Facilities, although a library may contain, provide access to, or otherwise support an Excluded Library Facility.

"Necessary Public Services" means those services prescribed in A.R.S. §9-463.05, subsection T, paragraph 5.

"Offset" means an amount which is subtracted from the overall costs of providing Necessary Public Services to account for those capital components of infrastructure or associated debt that have been or will be paid for by a development through taxes, fees (except for development impact fees), and other revenue sources, as determined by the City pursuant to Section 8-11-7 of this Article.

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"Parks and Recreational Facilities" means a Category of Necessary Public Services including but not limited to, parks, swimming pools and related facilities and equipment located on real property not larger than thirty (30) acres in area, as well as park facilities larger than thirty (30) acres where such facilities provide a Direct Benefit. Parks and Recreational Facilities do not include Excluded Park Facilities, although Parks and Recreational Facilities may contain, provide access to, or otherwise support an Excluded Park Facility.

"Plan-Based Cost Per Service Units" means the total future capital costs listed in the Infrastructure Improvements Plan for a Category of Necessary Public Services divided by the total new equivalent demand units projected in the Town for that Category of Necessary Public Services over the same time period.

"Pledged" where used with reference to a development impact fee means a development impact fee shall be considered "pledged" where it was identified by the City as a source of payment or repayment for Financing or Debt that was identified as the source of financing for a Necessary Public Service for which a development impact fee was assessed pursuant to the then-applicable provisions of A.R.S. § 9-463.05.

"Police Facilities" means a Category of Necessary Public Services, including Vehicles and Equipment used by law enforcement agencies to preserve the public peace, prevent crime, detect and arrest criminal offenders, protect the rights of persons and property, regulate and control motorized and pedestrian traffic, train sworn personnel, and/or provide and maintain police records, Vehicles, Equipment, and communications systems. Such costs do not include vehicles and equipment used to provide administrative services, helicopters or airplanes or any facility that is used for training officers from more than one station or substation.

"Qualified Professional" means any one of the following: (a) a professional engineer, surveyor, financial analyst or planner, or other licensed professional providing services within the scope of that person's education or experience related to City planning, zoning, or impact development fees and holding a license issued by an agency or political subdivision of the State of Arizona; (b) a financial analyst, planner, or other non-licensed professional that is providing services within the scope of the person's education or experience related to City planning, zoning, or impact development fees; or (c) any other person operating under the supervision of one or more of the above.

"Service Area" means any specified area within the boundaries of the City within which: (a) the City will provide a Category of Necessary Public Services to development at a planned Level of Service; and (b) within which (i) a Substantial Nexus exists between the Capital Facilities to be provided and the development to be served; or (ii) in the case of Library Facilities or a Park Facility larger than thirty (30) acres, a Direct Benefit exists between the Library Facilities or Park Facilities and the development to be served, each as prescribed in the Infrastructure Improvement Plan. Some or all of the Capital Facilities providing service to a Service Area may be physically located outside of that Service Area provided that the required Substantial Nexus or Direct Benefit is demonstrated to exist.

"Service Unit" means a unit of development within a particular Category of Development, defined in terms of a standardized measure of the demand that a unit of development in that Category of Development generates for Necessary Public Services in relation to the demand generated by a detached single-family Dwelling Unit. For all Categories of Necessary Public Services, the Service Unit factor for a detached single-family Dwelling Unit is one (1), while the Service Units factor for a unit of

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development within another Category of Development is represented as a ratio of the demand for each Category of Necessary Public Services typically generated by that unit as compared to the demand for such services typically generated by a detached single-family Dwelling Unit.

"Street Facilities" means a Category of Necessary Public Services including arterial or collector streets or roads that have been designated on an officially adopted plan of the municipality, traffic signals, and rights-of-way and improvements thereon.

"Subject Development" means any land area linked by a unified plan of development, which must be contiguous unless the land area is part of a development agreement executed in accordance with Section 8-11-12 of this Article.



- A. Except as otherwise provided herein, from and after August 1, 2014, this Article shall apply to all new development within any Service Area.
- B. The provisions of this Article shall apply to all of the territory within the corporate limits of the City and/or within the City's wastewater service areas.
- C. The City manager or his/her designee is authorized to make determinations regarding the application, administration and enforcement of the provisions of this Article.

Sec. 8-11-4                      Authority for Development Impact Fees

- A. *Fee Report and Implementation.* The City may assess and collect a development impact fee for costs of Necessary Public Services, including all professional services required for the preparation or revision of an Infrastructure Improvements Plan, Fee Report, development impact fee, and required reports or audits conducted pursuant to this Article. Development impact fees shall be subject to the following requirements:
  - 1. The City shall develop and adopt a Fee Report that analyzes and defines the development impact fees to be charged in each Service Area for each Capital Facility Category, based on the Infrastructure Improvements Plan and the Plan-Based Cost per EDU calculated pursuant to Section 8-11-7(A)(12) of this Article.
  - 2. Development impact fees shall be assessed against all new commercial, residential, and industrial developments, provided that the City may assess different amounts of development impact fees against specific Categories of Development based on the actual burdens and costs that are associated with providing Necessary Public Services to that Category of Development. No development impact fee shall exceed the Plan-Based Cost per EDU for any Category of Development.

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- 3. No development impact fees shall be charged, or Credits issued, for any Capital Facility that does not fall within one of the Categories of Necessary Public Services for which development impact fees may be assessed as identified in Section 8-11-7(A)(1) of this Article.
- 4. Costs for Necessary Public Services made necessary by new development shall be based on the same Level of Service provided to existing development in the same Service Area. Development impact fees may not be used to provide a higher Level of Service to existing development or to meet stricter safety, efficiency, environmental, or other regulatory standards to the extent that these are applied to existing Capital Facilities that are serving existing development.
- 5. Development impact fees may not be used to pay the City's administrative, maintenance, or other operating costs.
- 6. Projected interest charges and financing costs can only be included in development impact fees to the extent they represent principal and/or interest on the portion of any Financing or Debt used to finance the construction or

expansion of a Capital Facility identified in the Infrastructure Improvements Plan.

7. Except for any fees included on Interim Fee Schedules, all development impact fees charged by the City must be included in a "Fee Schedule" prepared pursuant to this Article and included in the Fee Report; example versions of all Fee Schedules are provided in Appendix A.
8. All development impact fees shall meet the requirements of A.R.S. § 9-463.05.

B. *Costs per EDU.* The Fee Report shall summarize the costs of Capital Facilities necessary to serve new development on a per EDU basis as defined and calculated in the Infrastructure Improvements Plan, including all required Offsets, and shall recommend a development impact fee structure for adoption by the City. The actual impact fees to be assessed shall be disclosed and adopted in the form of impact fee schedules described in Appendix A to this Article.

C. *Carry-over of Previously-Established Development Impact Fees and Grandfathered Facilities.* Notwithstanding the requirements of this Article, certain development impact fees adopted by the City prior to the effective date of this Article shall continue in effect as follows:

1. Until August 1, 2014 or the date a new development impact fee is effective for the applicable Category of Necessary Public Services in a Service Area pursuant to this Article, whichever occurs first, development impact fees established prior to January 1, 2012 shall continue in full force and effect to the extent that the development impact fee is used to provide a Category of Necessary Public Services that is authorized by Section 8-11-7 of this Article. Development impact fees collected prior to January 1, 2012, shall be expended on Capital

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Facilities within the same Category of Necessary Public Services for which they were collected.

2. The City may continue to collect and use any development impact fee established before January 1, 2012, even if the development impact fee would not otherwise be permitted to be collected and spent pursuant to A.R.S. § 9-463.05, as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session, if either of the following apply:
  - a. Both of the following conditions are met:
    - i. Prior to June 1, 2011, the development impact fee was Pledged towards the repayment of Financing or Debt incurred by the City to provide a Capital Facility.
    - ii. The applicable Capital Facility was included in the City's Infrastructure Improvements Plan, or other City planning document prepared pursuant to applicable law, prior to June 1, 2011.

- b. Before August 1, 2014, the City uses the development impact fee to finance a Capital Facility in accordance with A.R.S. § 9-463.05, Subsection (S).
3. Defined terms in any previously established fee schedule shall be interpreted according to the ordinance in effect at the time of their adoption.

Sec. 8-11-5 Administration of Development Impact Fees

- A. *Separate Accounts.* Development impact fees collected pursuant to this Article shall be placed in separate, interest-bearing accounts for each Capital Facility category within each Service Area.
- B. *Limitations on Use of Fees.* Development impact fees and any interest thereon collected pursuant to this Article shall be spent to provide Capital Facilities associated with the same Category of Necessary Public Services in the same Service Area for which they were collected, including costs of Financing or Debt used by the City to finance such Capital Facilities and other costs authorized by this Article that are included in the Infrastructure Improvements Plan.
- C. *Time Limit.* Development impact fees collected after July 31, 2014 shall be used within ten years of the date upon which they were collected for all Categories of Necessary Public Services except for Water and Wastewater Facilities. For Water Facilities or Wastewater Facilities collected after July 31, 2014, development impact fees must be used within 15 years of the date upon which they were collected.

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Sec. 8-11-6 Land Use Assumptions

The Infrastructure Improvements Plan shall be consistent with the City's current Land Use Assumptions for each Service Area and each Category of Necessary Public Services as adopted by the City pursuant to A.R.S. § 9-463.05.

- A. *Reviewing the Land Use Assumptions.* Prior to the adoption or amendment of an Infrastructure Improvements Plan, the City shall review and evaluate the Land Use Assumptions on which the Infrastructure Improvements Plan is to be based to ensure that the Land Use Assumptions within each Service Area conforms with the General Plan.
- B. *Evaluating Necessary Changes.* If the Land Use Assumptions upon which an Infrastructure Improvements Plan is based have not been updated within the last five years, the City shall evaluate the Land Use Assumptions to determine whether changes are necessary. If, after general evaluation, the City determines that the Land Use Assumptions are still valid, the City shall issue the report required in Section 8-11-9 of this Article.
- C. *Required Modifications to Land Use Assumptions.* If the City determines that changes to the Land Use Assumptions are necessary in order to adopt or amend an Infrastructure Improvements Plan, it shall make such changes as necessary to the Land Use Assumptions prior to or in conjunction with the review and approval of the Infrastructure Improvements Plan pursuant to Section -11-9 of this Article.

- A. *Infrastructure Improvements Plan Contents.* The Infrastructure Improvements Plan shall be developed by Qualified Professionals and may be based upon or incorporated within the City's Capital Improvements Plan. The Infrastructure Improvements Plan shall:
1. Specify the Categories of Necessary Public Services for which the City will impose a development impact fee, which may include any or all of the following:
    - a. Water
    - b. Wastewater
    - c. Stormwater, Drainage, and Flood Control
    - d. Libraries
    - e. Street Facilities
    - f. Fire Protection
    - g. Police
    - h. Parks
  2. Define and provide a map of one or more Service Areas within which the City will provide each Category of Necessary Public Services for which development impact fees will be charged. Each Service Area must be defined in a manner that demonstrates a Substantial Nexus between the Capital Facilities to be provided in the Service Area and the EDUs to be served by those Capital Facilities. For

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Libraries and for Parks larger than 30 acres, each Service Area must be defined in a manner that demonstrates a Direct Benefit between the Capital Facilities and the EDUs to be served by those Capital Facilities. The City may cover more than one category of Capital Facilities in the same Service Area provided that there is an independent Substantial Nexus or Direct Benefit, as applicable, between each Category of Necessary Public Services and the EDUs to be served.

3. Identify and describe the Land Use Assumptions upon which the Infrastructure Improvements Plan is based in each Service Area.
4. Analyze and identify the existing Level of Service provided by the City to existing EDUs for each Category of Necessary Public Services in each Service Area.
5. Identify the Level of Service to be provided by the City for each Category of Necessary Public Services in each Service Area based on the relevant Land Use Assumptions and any established City standards or policies related to required Levels of Service. If the City provides the same Category of Necessary Public Services in more than one Service Area, the Infrastructure Improvements Plan shall include a comparison of the Levels of Service to be provided in each Service Area.
6. For each Category of Necessary Public Services, analyze and identify the existing capacity of the Capital Facilities in each Service Area, the utilization of those Capital Facilities by existing EDUs, and the available excess capacity of those Capital Facilities to serve new EDUs including any existing or planned commitments or agreements for the usage of such capacity. The Infrastructure

Improvements Plan shall additionally identify any changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing EDUs, or to meet new safety, efficiency, environmental, or other regulatory requirements for services provided to existing EDUs.

7. Identify any Grandfathered Facilities and the impact thereof on the need for Necessary Public Services in each affected Service Area.
8. Estimate the total number of existing and future EDUs within each Service Area based on the City's Land Use Assumptions and projected new EDUs in each Service Area.
9. Based on the analysis in paragraphs (3)-(6) above, provide a summary table or tables describing the Level of Service for each Category of Necessary Public Services by relating the required Capital Facilities to EDUs in each Service Area, and identifying the applicable EDU factor associated with each Category of Development.

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10. For each Category of Necessary Public Services, analyze and identify the projected utilization of any available excess capacity in existing Capital Facilities, and all new or expanded Capital Facilities that will be required to provide and maintain the planned Level of Service in each Service Area as a result of the new projected EDUs in that Service Area, for a period not to exceed ten years. Nothing in this Subsection shall prohibit the City from additionally including in its Infrastructure Improvements Plan projected utilization of, or needs for, Capital Facilities for a period longer than ten years, provided that the costs of such Capital Facilities are excluded from the calculation of the Plan-Based Cost per EDU.
11. For each Category of Necessary Public Services, estimate the total cost of any available excess capacity and/or new or expanded Capital Facilities that will be required to serve new EDUs, including costs of land acquisition, improvements, engineering and architectural services, studies leading to design, design, construction, financing, and administrative costs, as well as projected costs of inflation. Such total costs shall not include costs for ongoing operation and maintenance of Capital Facilities, nor for replacement of Capital Facilities to the extent that such replacement is necessary to serve existing EDUs. If the Infrastructure Improvements Plan includes changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing EDUs, or to meet new regulatory requirements for services provided to existing EDUs, such costs shall be identified and distinguished in the Infrastructure Improvements Plan.
12. Forecast the revenues from taxes, fees, assessments or other sources that will be available to fund the new or expanded Capital Facilities identified in the Infrastructure Improvements Plan, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion

of utility fees attributable to development based on the approved land use assumptions. The Infrastructure Improvements Plan shall additionally estimate the time required to finance, construct and implement the new or expanded Capital Facilities.

13. Calculate required Offsets as follows:

- a. From the forecasted revenues in Subsection (12) of this Section, identify those sources of revenue that: (i) are attributable to new development, and (ii) will contribute to paying for the capital costs of Necessary Public Services.
- b. For each source and amount of revenue identified pursuant to paragraph (a) of this Subsection, calculate the relative contribution of each Category of Development to paying for the capital costs of Necessary Public Services in each Service Area.

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- c. Based on the relative contributions identified pursuant to paragraph (b) of this Subsection, for each Category of Necessary Public Services, calculate the total Offset to be provided to each Category of Development in each Service Area.
- d. For each Category of Necessary Public Services, convert the total Offset to be provided to each Category of Development in each Service Area into an offset amount per EDU by dividing the total Offset for each Category of Development by the number of EDUs associated with that Category of Development.
- e. Beginning August 1, 2014, for purposes of calculating the required Offset, if the City imposes a construction, contracting, or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate that is imposed on the majority of other transaction privilege tax classifications in the City, the entire excess portion of the construction, contracting, or similar excise tax shall be treated as a contribution to the capital costs of Necessary Public Services provided to new development unless the excess portion is already utilized for such purpose pursuant to this Section.
- f. In determining the amount of required Offset for land included in a community facilities district established under A.R.S. Title 48, Chapter 4, Article 6, the City shall take into account any Capital Facilities provided by the district that are included in the Infrastructure Improvements Plan and the capital costs paid by the district for such Capital Facilities, and shall offset impact fees assessed within the community facilities district proportionally.

14. Calculate the Plan-Based Cost per EDU by:

- a. Dividing the total projected costs to provide Capital Facilities to new EDUs for each Category of Necessary Public Services in each Service Area as determined pursuant to Subsection (9) of this Section into the



- a. The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not add any new Category of Necessary Public Services to any Service Area.
- b. The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not increase the Level of Service to be provided in any Service Area.

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- c. Based on an analysis of the Fee Report and the City's adopted development impact fee schedules, the changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions would not, individually or cumulatively with other amendments undertaken pursuant to this Subsection, have caused a development impact fee in any Service Area to have been increased by more than five per cent above the development impact fee that is provided in the current development impact fee schedule.
- d. At least 30 days prior to the date that the any amendment pursuant to this Section is adopted, the City shall post the proposed amendments on the City website.

B. *Amendments to the Fee Report.* Any adoption or amendment of a Fee Report and fee schedule shall occur at one or more public hearings according to the following schedule:

- 1. The first public hearing on the Fee Report must be held at least 30 days after the adoption or approval of and Infrastructure Improvements Plan as provided in Subsection A of this Section. The City must give at least 30 days notice prior to the hearing, provided that this notice may be given on the same day as the approval or disapproval of the Infrastructure Improvements Plan.
- 2. The City shall make the Infrastructure Improvements Plan and underlying Land Use Assumptions available to the public on the City's website 30 days prior to the public hearing described in Paragraph (1) of this Subsection.
- 3. The Fee Report may be adopted by the City no sooner than 30 days, and no later than 60 days, after the hearing described in Paragraph (1) of this Subsection.
- 4. The development fee schedules in the Fee Report adopted pursuant to this Subsection shall become effective 75 days after adoption of the Fee Report by the City.

Sec. 8-11-9

Timing for the Renewal and Updating of the Infrastructure Improvements Plan and the Land Use Assumptions

A. *Renewing the Infrastructure Improvements Plan.* Except as provided in Subsection B of this Section, not later than every five years the City shall update the applicable Infrastructure Improvements Plan and Fee Report related to each Category of Necessary Public Services pursuant to Section 8-11-8 of this Article. Such five-year period shall be calculated from the date of the adoption of the Infrastructure Improvements Plan or the date of the adoption of the Fee Report, whichever occurs later.

- B. *Determination of No Changes.* Notwithstanding Subsection (A) of this Section, if the City determines that no changes to an Infrastructure Improvements Plan, underlying Land Use Assumptions, or Fee Report are needed, the City may elect to continue the existing Infrastructure Improvements Plan and Fee Report without amendment by providing notice as follows:

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1. Notice of the determination shall be published at least 180 days prior to the end of the five-year period described in Subsection A of this Section.
2. The notice shall identify the Infrastructure Improvements Plan and Fee Report that shall continue in force without amendment.
3. The notice shall provide a map and description of the Service Area(s) covered by such Infrastructure Improvements Plan and Fee Report.
4. The notice shall identify an address to which any resident of the City may submit, within 60 days, a written request that the City update the Infrastructure Improvements Plan, underlying Land Use Assumptions, and/or Fee Report and the reasons and basis for the request.

- C. *Response to Comments.* The City shall consider and respond within 30 days to any timely requests submitted pursuant to Paragraph 4 of Subsection (B) of this Section.

Sec. 8-11-10

Collection of Development Impact Fees

- A. *Collection.* Development impact fees, together with administrative charges assessed pursuant to Paragraph (A)(6) of this Section, shall be calculated and collected prior to issuance of permission to commence development; specifically:
1. Unless otherwise specified pursuant to a Development Agreement adopted pursuant to Section 8-11-12 of this Article, development impact fees shall be paid prior to issuance of a building permit according to the current development impact fee schedule for the applicable Service Area(s) as adopted pursuant to this Article, or according to any other development impact fee schedule as authorized in this Article.
  2. If a building permit is not required for the development, but water or wastewater connections are required, any and all development impact fees due shall be paid at the time the water service connection is purchased. If only a wastewater connection is required, the development impact fees shall be paid prior to approval of a connection to the sewer system. Wastewater development impact fees shall be assessed if a development connects to the public sewer, or as determined by the Director of Growth Management or designee, is capable of discharging sewage to a City public sewer.
  3. If the development is located in a Service Area with a Stormwater, Drainage, and Flood Control development impact fee, and neither a building permit, water, or sewer service connection is required, the Storm Drainage development impact fee due shall be paid at the time a civil or site permit is issued for the development.

4. No building permit, water or sewer connection, or certificate of occupancy shall be issued if a development impact fee is not paid as directed in the previous paragraphs.
5. If the building permit is for a change in the type of building use, an increase in square footage, a change to land use, or an addition to a residential or non-residential point of demand to the water or wastewater system, the development impact fee shall be assessed on the additional service units resulting from the expansion or change, and following the development impact fee schedule applicable to any new use type.
6. For issued permits that expire or are voided, development impact fees and administrative charges shall be as follows:
  - a. If the original permittee is seeking to renew an expired or voided permit, and the development impact fees paid for such development have not been refunded, then the permittee shall pay the difference between any development impact fees paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.
  - b. If a new or renewed permit for the same development is being sought by someone other than the original permittee, the new permit Applicant shall pay the full development impact fees specified in the fee schedule in effect at the time that the permits are reissued or renewed. If the original permittee has assigned its rights under the permits to the new permit Applicant, the new permit Applicant shall pay development impact fees as if it were the original permittee.

B. *Exceptions.* Development impact fees shall not be owed under either of the following conditions:

1. Development impact fees have been paid for the development and the permit(s) which triggered the collection of the development impact fees have not expired or been voided.
2. The approval(s) that trigger the collection of development impact fees involve modifications to existing residential or non-residential development that do not: (a) add new EDUs, (b) increase the impact of existing EDUs on existing or future Capital Facilities, or (c) change the land-use type of the existing development to a different category of development for which a higher development impact fee would have been due. To the extent that any modification does not meet the requirements of this paragraph, the development impact fee due shall be the difference between the development impact fee that was or would have been due on the existing development and the development impact fee that is due on the development as modified.

- C. *Temporary Exemptions from Development Impact Fee Schedules.* New developments in the City shall be temporarily exempt from increases in development impact fees that result from the adoption of new or modified development impact fee schedules as follows:
1. Residential Uses. On or after the day that the first building permit is issued for a single-family residential development, the City shall, at the permittee's request, provide the permittee with an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that the first building permit is issued, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any building permit issued for the same single-family residential development shall not be subject to any new or modified development impact fee schedule.
  2. Commercial, Industrial and Multifamily Uses. On or after the day that the final approval, as defined in A.R.S. § 9-463.05(T)(4), is issued for a commercial, industrial or multifamily development, the City shall provide an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that final development approval of a site plan or final subdivision plat is given, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any building permit issued for the same development shall not be subject to any new or modified development impact fee schedule.
  3. Other Development. Any Category of Development not covered under paragraphs 1 and 2 of this Subsection shall pay development impact fees according to the fee schedule that is current at the time of collection as specified in Subsection (A) of this Section.
  4. Changes to Site Plans and Subdivision Plats. Notwithstanding the other requirements of this Subsection, if changes are made to a development's final site plan or subdivision plat that will increase the number of service units after the issuance of a grandfathered development impact fee schedule, the City may assess any new or modified development impact fees against the additional service units. If the City reduces the amount of an applicable development impact fee during the period that a grandfathered development impact fee schedule is in force, the City shall assess the lower development impact fee.
- D. *Option to Pursue Special Fee Determination.* Where a development is of a type that does not closely fit within a particular Category of Development appearing on an adopted development impact fee schedule, or where a development has unique characteristics such that the actual burdens and costs associated with providing Necessary Public Services to that development will differ substantially from that associated with other developments in a specified Category of Development, the City may require the Applicant to provide the City's Growth Management Department

Director or authorized designee with an alternative development impact fee analysis. Based on a projection of the actual burdens and costs that will be associated with the development, the alternative development impact fee analysis may propose a unique fee for the development based on the application of an appropriate EDU factor to the applicable Plan-Based Cost per EDU, or may propose that the development be covered under the development impact fee schedule governing a different and more analogous Category of Development. The City's Growth Management Department Director or authorized designee shall review the alternative impact fee analysis and shall make a determination as to the development impact fee to be charged. Such decision shall be appealable pursuant to Section 8-11-13 of this Article. The City Growth Management Department Director or authorized designee may require the Applicant to pay an administrative fee to cover the actual costs of reviewing the special fee determination application.

Sec. 8-11-11                      Development Impact Fee Credits and Credit Agreements

A.     *Eligibility of Capital Facility.* All development impact fee Credits must meet the following requirements:

1.     One of the following is true:
  - a.     The Capital Facility, or the financial contribution toward a Capital Facility that will be provided by the developer and for which a Credit will be issued, must be identified in an adopted Infrastructure Improvements Plan and Fee Report as a Capital Facility for which a development impact fee was assessed; or
  - b.     The Applicant must demonstrate to the satisfaction of the City that, given the class and type of improvement, the subject Capital Facility should have been included in the Infrastructure Improvements Plan in lieu of a different Capital Facility that was included in the Infrastructure Improvements Plan and for which a development impact fee was assessed. If the subject Capital Facility is determined to be eligible for a Credit in this manner, the City shall amend the Infrastructure Improvements Plan to (i) include the subject replacement facility and (ii) delete the Capital Facility that will be replaced.
2.     Credits shall not be available for any infrastructure provided by a developer if the cost of such infrastructure will be repaid to the developer by the City through another agreement or mechanism. To the extent that the developer will be paid or reimbursed by the City for any contribution, payment, construction, or dedication from any City funding source including an agreement to reimburse the developer with future collected development impact fees pursuant to Section 8-11-12 of this Article, any Credits claimed by the developer shall be: (a) deducted from any amounts to be paid or reimbursed by the City; or (b) reduced by the amount of such payment or reimbursement.

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B.     *Eligibility of Subject Development.* To be eligible for a Credit, the Subject Development must be located within the Service Area of the eligible Capital Facility.

- C. *Calculation of Credits.* Credits will be based on that portion of the costs for an eligible Capital Facility identified in the adopted Infrastructure Improvements Plan for which a development fee was assessed pursuant to the Fee Report. If the Gross Impact Fee for a particular category of Necessary Public Service is adopted at an amount lower than the Plan-Based Cost per EDU, the amount of any Credit shall be reduced in proportion to the difference between the Plan-Based Cost per EDU and the Gross Impact Fee adopted. A Credit shall not exceed the actual costs the Applicant incurred in providing the eligible Capital Facility.
- D. *Allocation of Credits.* Before any Credit can be issued to a Subject Development (or portion thereof), the Credit must be allocated to that development as follows:
1. The Developer and the City must execute a Credit Agreement including all of the following:
    - a. The total amount of the Credits resulting from provision of an eligible Capital Facility.
    - b. The estimated number of EDUs to be served within the Subject Development.
    - c. The method by which the Credit values will be distributed within the Subject Development.
  2. It is the responsibility of the developer to request allocation of development impact fee Credits through an application for a Credit Agreement (which may be part of a Development Agreement entered into pursuant to Section 8-11-12 of this Article).
  3. If a building permit is issued or a water/sewer connection is purchased, and a development impact fee is paid prior to execution of a Credit Agreement for the Subject Development, no Credits may be allocated retroactively to that permit or connection. Credits may be allocated to any remaining permits for the Subject Development in accordance with this Article.
  4. If the entity that provides an eligible Capital Facility sells or relinquishes a development (or portion thereof) that it owns or controls prior to execution of a Credit Agreement or Development Agreement, Credits resulting from the eligible Capital Facility will only be allocated to the development if the entity legally assigns such rights and responsibilities to its successor(s) in interest for the Subject Development.

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5. If multiple entities jointly provide an eligible Capital Facility, both entities must enter into a single Credit Agreement with the City, and any request for the allocation of Credit within the Subject Development(s) must be made jointly by the entities that provided the eligible Capital Facility.

6. Credits may only be reallocated from or within a Subject Development with the City's approval of an amendment to an executed Credit Agreement, subject to the following conditions:
  - a. The entity that executed the original agreement with the City, or its legal successor in interest and the entity that currently controls the Subject Development are parties to the request for reallocation.
  - b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.
  
7. A Credit Agreement may authorize the allocation of Credits to a non-contiguous parcel only if all of the following conditions are met:
  - a. The entity that executed the original agreement with the City or its legal successor in interest, the entity that currently controls the Subject Development, and the entity that controls the non-contiguous parcel are parties to the request for reallocation.
  - b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.
  - c. The non-contiguous parcel is in the same Service Area as that served by the eligible Capital Facility.
  - d. The non-contiguous parcel receives a Necessary Public Service from the eligible Capital Facility.
  - e. The Credit Agreement specifically states the value of the Credits to be allocated to each parcel and/or EDU, or establishes a mechanism for future determination of the Credit values.
  - f. The Credit Agreement does not involve the transfer of Credits to or from any property subject to a Development Agreement.
  
- E. *Credit Agreement.* Credits shall only be issued pursuant to a Credit Agreement executed in accordance with Subsection D of this Section. The City Manager or Authorized Designee] is authorized by this Article to enter into a Credit Agreement with the controlling entity of a Subject Development, subject to the following:

8-11-11 (E.1)

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8-11-11 (F)

1. The Developer requesting the Credit Agreement shall provide all information requested by the City to allow it to determine the value of the Credit to be applied.
2. An application for a Credit Agreement shall be submitted to the City by the Developer within one year of the date on which ownership or control of the Capital Facility passes to the City.

3. The Developer shall submit a draft Credit Agreement to the City Manager or authorized designee(s) for review in the form provided to the Applicant by the City. The draft Credit Agreement shall include, at a minimum, all of the following information and supporting documentation:
  - a. A legal description and map depicting the location of the Subject Development for which Credit is being applied. The map shall depict the location of the Capital Facilities that have been or will be provided.
  - b. An estimate of the total EDUs that will be developed within the Subject Development depicted on the map and described in the legal description.
  - c. A list of the Capital Facilities, associated physical attributes, and the related costs as stated in the Infrastructure Improvements Plan.
  - d. Documentation showing the date(s) of acceptance by the City, if the Capital Facilities have already been provided.
  - e. The total amount of Credit to be applied within the Subject Development and the calculations leading to the total amount of Credit.
  - f. The Credit amount to be applied to each EDU within the Subject Development for each Category of Necessary Public Services.
4. The City's determination of the Credit to be allocated is final.
5. Upon execution of the Credit Agreement by the City and the Applicant, Credits shall be deemed allocated to the Subject Development.
6. Any amendment to a previously approved Credit Agreement must be initiated within two years of the City's final acceptance of the eligible Capital Facility for which the amendment is requested.
7. Any Credit Agreement approved as part of a Development Agreement shall be amended in accordance with the terms of the Development Agreement and Section 8-11-12 of this Article.

F. *Issuance of Credits.* Credits allocated pursuant to Subsection (D) of this Section may be issued and applied toward the Gross Impact Fees due from a development, subject to the following conditions:

8-11-11 (F.1)

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8-11-2 (A.3)

1. Credits issued for an eligible Capital Facility may only be applied to the development impact fee due for the applicable Category of Necessary Public Services, and may not be applied to any fee due for another Category of Necessary Public Services.
2. Credits shall only be issued when the eligible Capital Facility from which the Credits were derived has been accepted by the City or when adequate security for the completion of the eligible Capital Facility has been provided in accordance with all terms of an executed Development Agreement.

3. Where Credits have been issued pursuant to paragraph (2) of this Subsection, an impact fee due at the time a building permit is issued shall be reduced by the Credit amount stated in or calculated from the executed Credit Agreement. Where Credits have not yet been issued, the Gross Impact Fee shall be paid in full, and a refund of the Credit amount shall be due when the Developer demonstrates compliance with Paragraph (2) of this Subsection in a written request to the City.
4. Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that Credits may be released for reuse on the same Subject Development if a building permit for which the Credits were issued has expired or been voided and is otherwise eligible for a refund under Section 8-11-14(A)(2) (a) of this Article.
5. Notwithstanding the other provisions of this Section 8-11-11, Credits issued prior to January 1, 2012 may only be used for the Subject Development for which they were issued. Such Credits may be transferred to a new owner of all or part of the Subject Development in proportion to the percentage of ownership in the Subject Development to be held by the new owner.

Sec. 8-11-12                      Development Agreements

Development Agreements containing provisions regarding development impact fees, development impact fee Credits, and/or disbursement of revenues from development impact fee accounts shall comply with the following:

- A. *Development Agreement Required.* A Development Agreement is required to authorize any of the following:
  1. To issue Credits prior to the City's acceptance of an eligible Capital Facility.
  2. To allocate Credits to a parcel that is not contiguous with the Subject Development and that does not meet the requirements of Subparagraph (D)(7) of Section 8-11-11 of this Article.
  3. To reimburse the developer of an eligible Capital Facility using funds from development impact fee accounts.

8-11-12 (A.4)                      BUILDING AND EXCAVATION                      8-11-12 (G)

4. To allocate different Credit amounts per EDU to different parcels within a Subject Development.
  5. For a single family residential Dwelling Unit, to allow development impact fees to be paid at a later time than the issuance of a building permit as provided in this Section.
- B. *General Requirements.* All Development Agreements shall be prepared and executed in accordance with A.R.S. § 9-500.05 and any applicable requirements of the City Code. Except where specifically modified by this Section, all provisions of Section 8-11-11 of this Article shall apply to any Credit Agreement that is authorized as part of a Development Agreement.

- C. *Early Credit Issuance.* A Development Agreement may authorize the issuance of Credits prior to acceptance of an eligible Capital Facility by the City when the Development Agreement specifically states the form and value of the security (i.e. bond, letter of Credit, etc.) to be provided to the City prior to issuance of any Credits. The City shall determine the acceptable form and value of the security to be provided.
- D. *Non-Contiguous Credit Allocation.* A Development Agreement may authorize the allocation of Credits to a non-contiguous parcel only if all of the following conditions are met:
  1. The non-contiguous parcel is in the same Service Area as that served by the eligible Capital Facility.
  2. The non-contiguous parcel receives a Necessary Public Service from the eligible Capital Facility.
  3. The Development Agreement specifically states the value of the Credits to be allocated to each parcel and/or EDU, or establishes a mechanism for future determination of the Credit values.
- E. *Uneven Credit Allocation.* The Development Agreement must specify how Credits will be allocated amongst different parcels on a per-EDU basis, if the Credits are not to be allocated evenly. If the Development Agreement is silent on this topic, all Credits will be allocated evenly amongst all parcels on a per-EDU basis.
- F. *Use of Reimbursements.* Funds reimbursed to developers from impact fee accounts for construction of an eligible Capital Facility must be utilized in accordance with applicable law for the use of City funds in construction or acquisition of Capital Facilities, including A.R.S. § 34-201, *et seq.*
- G. *Deferral of Fees.* A Development Agreement may provide for the deferral of payment of development impact fees for a residential development beyond the issuance of a building permit; provided that a development impact fee may not be paid later than the 15 days after the issuance of the certificate of occupancy for that Dwelling Unit. The

8-11-12 (G)

BUILDING AND EXCAVATION

8-11-13(G)

Development Agreement shall provide for the value of any deferred development impact fees to be supported by appropriate security, including a surety bond, letter of credit, or cash bond.

- H. *Waiver of Fees.* If the City agrees to waive any development impact fees assessed on development in a Development Agreement, the City shall reimburse the appropriate development impact fee account for the amount that was waived.
- I. *No Obligation.* Nothing in this Section obligates the City to enter into any Development Agreement or to authorize any type of Credit Agreement permitted by this Section.

Sec. 8-11-13

Appeals

A development impact fee determination by City staff may be appealed in accordance with the following procedures:

- A. *Limited Scope.* An appeal shall be limited to disputes regarding the calculation of the development impact fees for a specific development and/or permit and calculation of EDU's for the development.
- B. *Form of Appeal.* An appeal shall be initiated on such written form as the City may prescribe, and submitted to the Director of the Growth Management Department.
- C. *Department Action.* The Growth Management Department Director shall act upon the appeal within 30 calendar days of the filing of the appeal with the Growth Management Department, and the Applicant shall be notified of the Director's decision in writing.
- D. *Appeal to Manager.* The Applicant may further appeal the decision of the Growth Management Department Director to the City Manager or authorized designee, who shall be in a more senior position than the Growth Management Department Director, within 14 calendar days of the decision.
- E. *Action by Manager.* The City Manager or authorized designee shall act upon the appeal within 14 calendar days of receipt of the appeal, and the Applicant shall be notified of the City Manager or authorized designee's decision in writing.
- F. *Final Decision.* The City Manager or authorized designee's decision regarding the appeal is final.
- G. *Fees During Pendency.* Building permits may be issued during the pendency of an appeal if the Applicant (1) pays the full impact fee calculated by the City at the time the appeal is filed or (2) provides the City with financial assurances in the form acceptable to the City Manager or authorized designee equal to the full amount of the impact fee. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered, and a refund paid if warranted. If the appeal is denied by the City Manager or authorized designee, and the Applicant has provided the City with financial assurances as set forth in clause (2) above, the Applicant shall deliver the full amount of

8-11-13 (G)

BUILDING AND EXCAVATION

8-11-14 (A.2e.)

the impact fee to the City within ten days of the City Manager or designee's final decision on the appeal. If the Applicant fails to deliver the full amount of the impact fees when required by this Subsection, the City may draw upon such financial assurance instrument(s) as necessary to recover the full amount of the impact fees due from the Applicant.

Sec. 8-11-14

Refunds of Development Impact Fees

- A. *Refunds.* A refund (or partial refund) will be paid to any current owner of property within the City who submits a written request to the City and demonstrates that:
  1. The permit(s) that triggered the collection of the development impact fee have expired or been voided prior to the commencement of the development for which the permits were issued and the development impact fees collected have not been expended, encumbered, or Pledged for the repayment of Financing or Debt; or
  2. The owner of the subject real property or its predecessor in interest paid a development impact fee for the applicable Capital Facility on or after August 1, 2014, and one of the following conditions exists:

- a. The Capital Facility designed to serve the subject real property has been constructed, has the capacity to serve the subject real property and any development for which there is reserved capacity, and the service which was to be provided by that Capital Facility has not been provided to the subject real property from that Capital Facility or from any other infrastructure.
- b. After collecting the fee to construct a Capital Facility the City fails to complete construction of the Capital Facility within the time period identified in the Infrastructure Improvements Plan, as it may be amended, and the corresponding service is otherwise unavailable to the subject real property from that Capital Facility or any other infrastructure.
- c. For a Category of Necessary Public Services other than Water or Wastewater Facilities, any part of a development impact fee is not spent within ten years of the City's receipt of the development impact fee.
- d. Any part of a development impact fee for Water or Wastewater Facilities is not spent within 15 years of the City's receipt of the development impact fee.
- e. The development impact fee was calculated and collected for the construction cost to provide all or a portion of a specific Capital Facility serving the subject real property and the actual construction costs for the Capital Facility are less than the construction costs projected in the Infrastructure Improvements Plan by a factor of 10% or more. In such event,

8-11-14 (A.2e.)

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8-11-15 (B.4)

the current owner of the subject real property shall, upon request as set forth in this Section A, be entitled to a refund for the difference between the amounts of the development impact fee charged for and attributable to such construction cost and the amount the development impact fee would have been calculated to be if the actual construction cost had been included in the Fee Report. The refund contemplated by this Subsection shall relate only to the costs specific to the construction of the applicable Capital Facility and shall not include any related design, administrative, or other costs not directly incurred for construction of the Capital Facility that are included in the development impact fee as permitted by A.R.S. § 9-463.05.

- B. *Earned Interest.* A refund of a development impact fee shall include any interest actually earned on the refunded portion of the development impact fee by the City from the date of collection to the date of refund. All refunds shall be made to the record owner of the property at the time the refund is paid.
- C. *Refund to Government.* If a development impact fee was paid by a governmental entity, any refund shall be paid to that governmental entity.

Sec. 8-11-15

Oversight of Development Impact Fee Program

- A. *Annual Report.* Within 90 days of the end of each fiscal year, the City shall file with the City Clerk an unaudited annual report accounting for the collection and use of the fees for each service area and shall post the report on its website in accordance with A.R.S. § 9-463.05, Subsections N and O, as amended.
- B. *Biennial Audit.* In addition to the Annual Report described in Subsection A of this Section, the City shall provide for a biennial, certified audit of the City's Land Use Assumptions, Infrastructure Improvements Plan and development impact fees.
  - 1. An audit pursuant to this Subsection shall be conducted by one or more Qualified Professionals who are not employees or officials of the City and who did not prepare the Infrastructure Improvements Plan.
  - 2. The audit shall review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development impact fees assessed, collected, and spent on capital facilities.
  - 3. The audit shall describe the Level of Service in each Service Area, and evaluate any inequities in implementing the Infrastructure Improvements Plan or imposing the development impact fee.
  - 4. The City shall post the findings of the audit on the City's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.

8-11-15 (B.5)

BUILDING AND EXCAVATION

8-11-15 (B.5)

- 5. For purposes of this Section a certified audit shall mean any audit authenticated by one or more of the Qualified Professionals conducting the audit pursuant to paragraph (1) of this Subsection.

## Appendix

### Fee Schedules

#### Section 8-11-5 Fire Protection Development Fee

A. Baseline Development Fee. All new residential and non-residential development within the City of Coolidge shall be subject to the payment of a Fire Protection Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The baseline Fire Protection Development Fee shall be:

<b><u>Residential Development</u></b>	<b><u>Per Dwelling Unit</u></b>
Single Family Detached	\$751
All other Housing Types	\$438

  

<b><u>Non-Residential Development</u></b>	<b><u>Per 1,000 sq. ft. of floor area)</u></b>
Commercial	\$1,284
Office/Institutional	\$2,132
Industrial/Flex	\$587

#### Section 8-11-6 Library Facilities Development Fee

A. Baseline Development Fee. All new residential and non-residential development within the City of Coolidge shall be subject to the payment of a Library Facilities Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The baseline Library Facilities Development Fee shall be:

<b><u>Residential Development</u></b>	<b><u>Per Dwelling Unit</u></b>
Single Family Detached	\$296
All other Housing Types	\$172

  

<b><u>Non-Residential Development</u></b>	<b><u>Per 1,000 sq. ft. of floor area)</u></b>
Commercial	\$109
Office/Institutional	\$181
Industrial/Flex	\$50

#### Section 8-11-7 Parks and Recreational Facilities Development Fee

A. Baseline Development Fee. All new residential and non-residential development within the City of Coolidge shall be subject to the payment of a Parks and Recreational Facilities Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The baseline Parks and Recreational Facilities Development Fee shall be:

<b><u>Residential Development</u></b>	<b><u>Per Dwelling Unit</u></b>
Single Family Detached	\$839
All other Housing Types	\$489

<b><u>Non-Residential Development</u></b>	<b><u>Per 1,000 sq. ft. of floor area)</u></b>
Commercial	\$302
Office/Institutional	\$501
Industrial/Flex	\$138

Section 8-11-8            Police Facilities Development Fee

A.        Baseline Development Fee. All new residential and non-residential development within the City of Coolidge shall be subject to the payment of a Police Facilities Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The baseline Police Facilities Development Fee shall be:

<b><u>Residential Development</u></b>	<b><u>Per Dwelling Unit</u></b>
Single Family Detached	\$734
All other Housing Types	\$428

<b><u>Non-Residential Development</u></b>	<b><u>Per 1,000 sq. ft. of floor area)</u></b>
Commercial	\$2,252
Office/Institutional	\$881
Industrial/Flex	\$284

Section 8-11-9            Wastewater Facilities Development Fee

A.        All new residential and non-residential development within the City of Coolidge shall be subject to the payment of a Wastewater Facilities Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as follows:

<b><u>All Development</u></b>	<b><u>Per Meter</u></b>
<b>Inches</b>	
0.75	\$1,693
1.00	\$2,828
1.50	\$5,639
2.00	\$9,026
3.00	\$18,068

Section 8-11-10           Street Facilities Development Fee

A.        Baseline Development Fee. All new residential and non-residential development within the City of Coolidge shall be subject to the payment of a Street Facilities Development Fee payable at the time of building permit issuance by the City, pursuant to the terms and condition of this Article and in the amount as set forth in this Article. The baseline Street Facilities Development Fee shall be:

<b><u>Residential Development</u></b>	<b><u>Per Dwelling Unit</u></b>
Single Family Detached	\$2,067

All other Housing Types

\$1,331

**Non-Residential Development**

**Per 1,000 sq. ft. of floor area)**

Commercial

\$3,698

Office/Institutional

\$1,601

Industrial/Flex

\$517

Article 8-12

UNIFORM HOUSING CODE

- 8-12-1 Adoption
- 8-12-2 Violations

Section 8-12-1

Adoption of Uniform Housing Code

That certain code entitled "Uniform Housing Code," 2000<sup>1</sup> Edition, copyrighted by the International Conference of Building Officials except all provisions relating to administrative procedures other than mentioned under the headings Title and Purpose and Scope is hereby adopted as the "Uniform Housing Code of the City of Coolidge" and made a part of this chapter the same as though said code was specifically set forth in full herein. At least three (3) copies of said code shall be filed in the office of the City Clerk and kept available for public use and inspection.

Section 8-12-2

Violations

The penalty for a violation of section 8-12-1 shall be the penalty for violations of "The Code of the City of Coolidge, Arizona" as set forth in Article 1-8.

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<sup>1</sup> AMENDED 8-12-1

Article 8-13      PRESERVATION AND DEDICATION OF PUBLIC RIGHTS-OF-WAY

No application for a building permit, application for rezoning, application for subdivision plat approval or application for a variance from existing zoning regulations shall be approved without first making adequate provisions for the preservation and dedication of public rights-of-way, including any street, sidewalk, alley, bicycle path, easement or other right-of-way in the City, under the following standards:

- A. the applicant's proposal will not unreasonably interfere with or otherwise affect vehicular and pedestrian traffic adjacent to or across the subject property;
- B. the applicants proposal will not unreasonably interfere with existing public rights-of-way adjacent to or across the subject property;
- C. the health, welfare and safety of the public will not be unreasonably injured or affected;
- D. the applicant has agreed to dedicate or convey to the City sufficient property;
  1. to accommodate vehicular and pedestrian traffic reasonably envisioned as the result of the applicant's proposed use of the subject property and reasonably envisioned for the neighborhood in which the subject property is located; and
  2. to accommodate sufficient space for the installation of utilities and for ingress and egress to operate and maintain those utilities; and
  3. to accommodate sufficient public parking requirements reasonably envisioned as a result of the development and use of the subject property; and
  4. to accommodate sufficient access to and around the subject property by City service vehicles, including trash collection vehicles and fire trucks; and
  5. to conform to the General Plan and established Rights-of-Way widths.

Article 8-14 COOLIDGE BUILDING CODE<sup>1</sup>

- 8-14-1 Title and Purpose
- 8-14-2 Application
- 8-14-3 Adoption of Specific Codes
- 8-14-4 Copies to be held as Public Records
- 8-14-5 Rules and Definitions
- 8-14-6 Building Code Administration
- 8-14-7 Zoning Certification
- 8-14-8 Application for Permit
- 8-14-9 Variances from Codes
- 8-14-10 Appeals to Board of Appeals
- 8-14-11 Violations
- 8-14-12 Penalties and Enforcement
- 8-14-13 Liability
- 8-14-14 Conflicting Provisions
- 8-14-15 Severability

Section 8-14-1 Title and Purpose

This Article may be cited and referred to as the Coolidge Building Code. The purpose of this Article is to enact rules and procedures to regulate the quality, type of material and workmanship of all aspects of construction and maintenance of buildings or structures, within the incorporated area of the city of Coolidge.

Section 8-14-2 Application

This Article shall apply to the construction, repair, additions to, installation and maintenance of all buildings, structures, and property appurtenant thereto, within the incorporated areas the City of Coolidge, except as otherwise provided by statute, regulation or ordinance.

Section 8-14-3 Adoption of Specific Codes<sup>2</sup>

Pursuant to A.R.S. Section 9-802, the code documents described hereinafter, as published, and as specifically amended by the City Council, are hereby adopted by reference as if fully set out herein, as the Coolidge Building Code.

- A) *International Building Code*, 2006 Edition, as published by the International Code Council, otherwise described as Code No. 1 or IBC, including the following listed Appendix Chapters:**

Appendix C - Group U - Agricultural Buildings

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<sup>1</sup> **ADDED 8-14**

**Ordinance 03-13**

**Adopted 11/10/03**

<sup>2</sup> **AMENDED 8-14-3**

**Ordinance 09-05**

**Adopted 01/26/09**

Appendix F - Rodentproofing

Appendix G - Flood-Resistant Construction

Appendix I - Patio Covers

Appendix J - Grading

along with amendments thereto included in Exhibit A hereto, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the IBC held as a Public Record.

- B) **International Residential Code**, 2006 Edition, as published by the International Code Council, hereinafter described as Code No. 2 or IRC, including the following listed Appendix Chapters:

Appendix A - Sizing and capacities of Gas Piping

Appendix B - Sizing of Venting Systems serving Appliances equipped with draft hoods, category I appliances, and appliances listed for use with type B vents.

Appendix C - Exit Terminals of Mechanical Draft and Direct - Vent Venting Systems.

Appendix G - Swimming Pools, Spas and Hot Tubs

Appendix H - Patio Covers

Appendix J - Existing Buildings and Structures

along with amendments thereto included in Exhibit B hereto, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the IRC held as a Public Record.

- C) **International Fuel Gas Code**, 2006 Edition, as published by the by the International Code Council, hereinafter described as Code No. 3, or IFGC, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the IFGC held as a Public Record.

- D) **International Mechanical Code**, 2006 Edition, as published by the International Code Council, hereinafter described as Code No. 4, or IMC, along with amendments thereto included in Exhibit C hereto, which is hereby adopted by reference as if fully set

forth herein, a copy of which will be kept with each version of the IMC held as a Public Record.

- E) **International Plumbing Code**, 2006 Edition, as published by the International Code Council, hereinafter described as Code No. 5, or IPC, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the IPC held as a Public Record.
- F) **International Fire Code**, 2006 Edition, as published by the International Code Council, hereinafter described as Code No. 6, or IFC, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the of the IFC held as a Public Record.

Appendix A - Board of Appeals

Appendix B - Fire-Flow Requirements for Buildings

Appendix C - Fire Hydrant Locations and Distribution

Appendix D - Fire apparatus access roads

Appendix E - Hazard Categories

Appendix F - Hazard Ranking

Appendix G - Cryogenic Fluids - Weight and Volume Equivalents

- G) **International Property Maintenance Code**, 2006 Edition, as published by the International Conference of Building Officials, hereinafter described as Code No. 7 or IPMC, along with amendments thereto included in Exhibit D hereto, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the IPMC held as a Public Record.
- H) **International Existing Building Code**, 2006 Edition, as published by the International Conference of Building Officials, hereinafter described as Code No. 8 or IEBC, along with amendments thereto included in Exhibit E hereto, which is hereby adopted by reference as if fully set forth herein, a copy of which will be kept with each version of the IEBC held as a Public Record.



8-14-4 (B)

BUILDING AND EXCAVATION

8-14-5 (G)

- B) One copy of Code Nos. 1 through 13 shall be kept on file in the Building Department.
- C) One copy of Code Nos. 1 through 13 shall be kept on file in the City Library.

Section 8-14-5 Rules and Definitions

The following rules and definitions shall be used when interpreting provisions of this Article and the Codes adopted by reference therein. If the definitions provided herein conflict in any way with the definitions contained in the Codes set forth in Section 8-14-3, the definitions set forth in this Section shall prevail.

- A) "ADMINISTRATIVE AUTHORITY": When used in the Codes, "ADMINISTRATIVE AUTHORITY" shall mean the Coolidge Building Official, Code Official, Community Services Director, or City Council.
- B) "BOARD OF APPEALS": When used in the Building Codes or this Article, the term "BOARD OF APPEALS" shall refer to a board comprised of the Coolidge City Council and Mayor which shall be the sole entity to hear appeals from the decisions of the Building Official, determine the suitability of alternative materials and construction and to permit interpretations of the provisions of the codes, but not administrative portions of the building code. References to any other boards in the codes shall have no force and effect and are hereby superseded by this Article.
- C) "BUILDING CODES": "BUILDING CODES" shall mean the Codes listed and described in Section 8-14-3 of this Article.
- D) "BUILDING OFFICIAL, CODE OFFICIAL, MECHANICAL INSPECTOR and CHIEF ELECTRICAL INSPECTOR": shall each mean the Building Official (as established by Section 8-14-6 herein), or other person charged with administration and enforcement of this code.
- E) "COMMERCIAL"; when used herein the word "COMMERCIAL" refers to the use of a building, addition or structure for business, educational, religious, institutional, recreational, industrial or any other non-residential purpose.
- F) "JURISDICTION"; the term "JURISDICTION" shall mean the incorporated areas of the City of Coolidge.
- G) "NON-COMMERCIAL"; "NON-COMMERCIAL" refers to the use of a building, structure or addition for a residential purpose.

H) References to Chapters, Articles, Sections, Subsection, Paragraphs, Subparagraphs and Tables, unless otherwise specified, refer to the building code documents listed in Article 3 of this ordinance.

Section 8-14-6 Building Code Administration<sup>1</sup>

A) The position of the Building Official is an administrative position and shall be an exempt position. Said administrator shall be responsible for the administration and enforcement of this code.

B) The Building Official shall keep careful and comprehensive records of applications for permits, of permits issued, of inspections made, of revenue received, of reports rendered and of notices or orders issued. The Building Official shall further retain on files copies of all documents in connection with building work for the minimum time period required by this code, or for such additional time as he/she deems necessary.

Section 8-14-7 Zoning Certification

No Building Permit shall be issued to any Person unless a copy of a certification of appropriate zoning has been issued by the City Planner to the Building Official. Exceptions to this requirement are permits for mechanical, electrical or plumbing work, and remodeling that do not involve a change of use or additional area which may affect required setbacks.

Section 8-14-8 Application for Permit

The Building Official may require with an application for a building permit whatever data and information is deemed necessary to reasonably determine that the proposed work is in compliance with the requirements of this Code and other pertinent laws and ordinances.

Section 8-14-9 Variances from Codes

A) The Building Official may grant a variance to the Building Codes as permitted therein or, if the Building Codes do not specifically provide for a variance procedure the Building Official may nonetheless grant a variance from the use of materials or methods set forth in the Building Code when unnecessary hardship or a result inconsistent with the general intent of the Building Code to provide for the safety of occupants will occur as a result of its strict or literal interpretation.

B) The Building Official shall grant a variance from the State Plumbing Code only upon the following findings: (1) There is a special circumstance affecting the plumbing installation that does not  
8-14-9 (B) BUILDING AND EXCAVATION 8-14-12 (B-1)

apply to most of the similar installations; (2) The special circumstances was not created or caused by the applicant; and (3) Granting the variance shall not be materially detrimental to others living or working in the vicinity, to adjacent property to the neighborhood or to the general welfare.

#### Section 8-14-10 Appeals to Board of Appeals

A person shall have the right to appeal a decision of the Building Official to the Board of Appeals as set forth in the Codes or, if the Codes do not specifically provide for the right of appeal, in any case where the person claims that the provisions of the Codes have been incorrectly interpreted, do not fully apply, an equally good or better form of construction is proposed, or that an undue hardship would occur if the Codes were strictly applied and the variance requested would not adversely impact the safety of the occupants, neighbors, property or City in general.

#### Section 8-14-11 Violations

It is unlawful for any person, firm, corporation, entity or enterprise to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building, structure or property in the Jurisdiction, or cause the same to be done, contrary to or in violation of any of the provisions of this Article or the Codes adopted herein.

#### Section 8-14-12 Penalties and Enforcement

##### A) Criminal penalties

(1) Any person, as defined in Code No. 1, Sec. 202, who violates any provision of this ordinance shall be guilty of a Class One (1) Misdemeanor.

(2) Any person convicted of a Class One (1) Misdemeanor for violation of this ordinance may be sentenced to the Jail for a period not to exceed six (6) months and/or fined an amount not to exceed One thousand (\$1,000.00) Dollars.

(3) Each failure to obtain a required permit clearance, certification, review, approval or inspections shall constitute a separate violation of this ordinance.

##### B) Civil Penalties<sup>1</sup>

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<sup>1</sup> AMENDS SECTION 8-14-12 (B) (3)

(1) Any person, as defined in Code No. 1, Sec. 202, or enterprise, as defined pursuant to A.R.S. §13-105, who violates any provision of this ordinance shall be subject to a civil penalty, as an alternative method of enforcing this ordinance.

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(2) No person shall be subject to a criminal penalty for a violation enforced under the civil penalty provisions of this section.

(3) The amount of the Civil penalty for the violation of the ordinance shall be determined by the City Magistrate or Hearing Officer subject, however, to the direction of the City Council which may, but is not required to, establish a schedule of such penalties, said penalties shall not exceed the amount of Two Thousand Five Hundred Dollars (\$2,500.00) for each offense.

(4) Any person alleged to be subject to a civil penalty for a violation of this ordinance shall be entitled to an administrative hearing regarding their liability, and a review of the administrative decision by the City Council. The administrative hearing shall be before the City Court, subject to the rules of procedure for same as adopted by the City Council.

#### C) Other Methods of Enforcement

The City Council, the City Attorney, the Building Official, or any adjacent or neighboring property owner who shall be especially damaged by the violation of any provision of this ordinance, may initiate other remedies provided by law, e.g. an injunction, writ of mandamus, abatement or any other appropriate action, proceeding or proceedings to prevent, abate or remove such violation of the ordinance.

#### D) Separate Offenses

Any person, firm, or corporation violating this ordinance shall be deemed guilty of a separate offense of each and every day during which a violation of the provisions of this ordinance is committed, continued or permitted.

#### Section 8-14-13 Liability

Neither the Board of Appeals, the Building Official or other officer or employee charged with the enforcement of the Code, while acting in good faith, without malice and for the jurisdiction, shall be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or failure to perform an act required or permitted in the discharge of official duties.

#### Section 8-14-14 Conflicting Provisions

A) Where, in any specific case, different sections of the Building Code or City Code specify the use of different materials,

different construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general and specific requirement, the specific requirement shall be applicable.

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B) Notwithstanding the foregoing, if there is a conflict between a portion of the Building Code and the State Plumbing Code, the provisions of the State Plumbing Code shall govern.

Section 8-14-15 Severability<sup>1</sup>

If any section, subsection, sentence, clause, phrase or portion of this ordinance, or any part of Codes Nos. 1-13, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof.