

**Yavapai County  
Roadway Development Fee Program  
Annual Report  
FY 2017/2018**

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**September 24, 2018**



## **Introduction**

Yavapai County assesses roadway development fees within a defined benefit area for capital improvements to our regional road system. This annual report provides compliance with A.R.S. §11-1102 which requires the County to prepare an annual report accounting for the collection and use of the fees. A copy of this section of the Arizona Revised Statutes has been included in the Appendix of this report.

## **Roadway Development Fee Program Overview**

On June 1, 1998, the Yavapai County Board of Supervisors adopted the “Yavapai County Roadway Development Fee Ordinance” Ordinance No. 1998-2. This ordinance took effect on September 1, 1998, and provided the County the authority for assessing and collecting fees.

As part of the adoption of this ordinance the County created two (2) Roadway Benefit Area Plans: one in Central Yavapai County (western benefit area) and another in the Verde Valley (eastern benefit area).

The adopted Central Yavapai County Roadway Development Fee was \$1,200 and the adopted Verde Valley Road Development Fee was \$1,100 per new residential dwelling unit. These fees were different because of the estimated costs of identified regional road projects and the estimated number of building permits in each benefit area at the time of the 1998 ordinance adoption.

The County’s Regional Road Capital Improvement Plan is funded by the roadway development fees and a portion of the County’s half-cent sales tax. The County currently dedicates 40% of the half-cent sales tax to the Regional Road Capital Improvement Plan. The sales tax provides a majority of the funding for the Regional Road Capital Improvement Plan.

Since the adoption of the County’s original roadway development fee ordinance in 1998 the Arizona Revised Statute (A.R.S. §11-1102) that governs County development fees was revised. Based on this statutory revision and, in an effort to clarify and simplify the roadway development fee ordinance, the County Board of Supervisors adopted a new ordinance on April 3, 2006. This ordinance, “Yavapai County Roadway Development Fee Ordinance” Ordinance No. 2006-1 was effective May 3, 2006. Ordinance No. 2006-1 was in effect until February 3, 2014. On February 3, 2014 the County Board of Supervisors adopted minor clarifications to the 2006-1 ordinance. The clarifications included updating the General Provisions section B, “Definitions”, with new definitions for items number three and four “Dwelling Unit” and “New Development” respectively. A copy of “Yavapai County Roadway Development Fee Ordinance” Ordinance No. 2014-1 has been included in the Appendix of this report.

Ordinance 2014-1 establishes the procedures for setting and approving roadway development fees and repeals Ordinance 2006-1 and 1998-2 except for those provisions in the earlier ordinance that established the current roadway development fees.

On June 4, 2007, the Board of Supervisors approved a new roadway development fee in the amount of \$3,400. This new fee is assessed on every new residential dwelling unit within unincorporated Yavapai County.

The new fee was effective September 4, 2007, and superseded the two roadway development fees that were in place since September 1, 1998.

### **Annual Report**

The annual report provides information on the collection and use of the roadway development fees during FY 2017/2018.

Table 1 provides a summary of overall revenue and expenditures related to roadway development fee eligible projects.

The summary shows greater expenditures by the County on roadway development fee eligible projects than revenue collected since the establishment of roadway development fees in 1998. That is understandable since a majority of the County's Regional Road Capital Improvement Plan is funded by a portion of the County's half-cent sales tax.

The roadway development fees were established to supplement the funding of specific regionally significant projects in the County's Regional Road Capital Improvement Plan in order to address the impact of new residential development on the County's regional transportation system.

In the Appendix of this report is a spreadsheet showing detailed information on the project expenditures associated with the Regional Road Capital Improvement Plan.

Roadway development fee eligible projects have been identified in the spreadsheet for the fees established in 1998 (eastern and western benefit areas), as well as the eligible projects in the fee program effective September 4, 2007 (County wide roadway development fee) which superseded the previously established fees.

**Table 1**  
**Yavapai County Roadway Development Fee Collection for Fiscal Years 1998/1999 through 2017/2018**

<b>East Benefit Area</b>	<b>1998/1999</b>	<b>1999/2000</b>	<b>2000/2001</b>	<b>2001/2002</b>	<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>	<b>2005/2006</b>	<b>2006/2007</b>				
Beginning Fund Balance	\$ -	\$ (615,398)	\$ (1,977,857)	\$ (5,306,930)	\$ (5,244,518)	\$ (6,873,508)	\$ (12,543,907)	\$ (13,156,660)	\$ (12,609,600)				
Revenue	\$ 276,100	\$ 448,800	\$ 407,000	\$ 465,345	\$ 489,643	\$ 572,643	\$ 726,660	\$ 758,000	\$ 299,200				
Expenditures	\$ 891,498	\$ 1,811,259	\$ 3,736,073	\$ 402,933	\$ 2,118,633	\$ 6,243,042	\$ 1,339,413	\$ 210,940	\$ 230,147				
<b>Ending Fund Balance</b>	<b>\$ (615,398)</b>	<b>\$ (1,977,857)</b>	<b>\$ (5,306,930)</b>	<b>\$ (5,244,518)</b>	<b>\$ (6,873,508)</b>	<b>\$ (12,543,907)</b>	<b>\$ (13,156,660)</b>	<b>\$ (12,609,600)</b>	<b>\$ (12,540,547)</b>				
<b>West Benefit Area</b>	<b>1998/1999</b>	<b>1999/2000</b>	<b>2000/2001</b>	<b>2001/2002</b>	<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>	<b>2005/2006</b>	<b>2006/2007</b>				
Beginning Fund Balance	\$ -	\$ (6,354,607)	\$ (6,396,769)	\$ (11,510,008)	\$ (18,057,038)	\$ (26,892,533)	\$ (27,225,652)	\$ (26,285,581)	\$ (26,644,527)				
Revenue	\$ 612,025	\$ 847,717	\$ 858,084	\$ 863,684	\$ 866,327	\$ 927,868	\$ 1,330,075	\$ 998,246	\$ 621,365				
Expenditures	\$ 6,966,632	\$ 889,879	\$ 5,971,323	\$ 7,410,714	\$ 9,701,822	\$ 1,260,987	\$ 390,004	\$ 1,357,192	\$ 1,338,568				
<b>Ending Fund Balance</b>	<b>\$ (6,354,607)</b>	<b>\$ (6,396,769)</b>	<b>\$ (11,510,008)</b>	<b>\$ (18,057,038)</b>	<b>\$ (26,892,533)</b>	<b>\$ (27,225,652)</b>	<b>\$ (26,285,581)</b>	<b>\$ (26,644,527)</b>	<b>\$ (27,361,730)</b>				
<b>East Benefit Area</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>	<b>2014/2015</b>	<b>2015/2016</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>TOTAL</b>	
Beginning Fund Balance	\$ (12,540,547)	\$ (12,451,547)	\$ (12,481,347)	\$ (12,482,447)	\$ (12,482,447)	\$ (12,482,447)	\$ (12,482,447)	\$ (12,482,447)	\$ (12,482,447)	\$ (12,482,447)	\$ (12,482,447)		
Revenue	\$ 89,000	\$ (29,800)	\$ (1,100)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,501,491	
Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,983,938	
<b>Ending Fund Balance</b>	<b>\$ (12,451,547)</b>	<b>\$ (12,481,347)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>	<b>\$ (12,482,447)</b>		
<b>West Benefit Area</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>	<b>2014/2015</b>	<b>2015/2016</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>TOTAL</b>	
Beginning Fund Balance	\$ (27,361,730)	\$ (27,109,740)	\$ (27,115,740)	\$ (27,115,740)	\$ (27,113,340)	\$ (27,113,340)	\$ (27,113,340)	\$ (27,113,340)	\$ (27,113,340)	\$ (27,113,340)	\$ (27,113,340)		
Revenue	\$ 251,990	\$ (6,000)	\$ -	\$ 2,400	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,173,781	
Expenditures	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,287,121	
<b>Ending Fund Balance</b>	<b>\$ (27,109,740)</b>	<b>\$ (27,115,740)</b>	<b>\$ (27,115,740)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>	<b>\$ (27,113,340)</b>		
<b>County Wide Benefit Ar</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>	<b>2014/2015</b>	<b>2015/2016</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>TOTAL</b>	
Beginning Fund Balance	\$ -	\$ (6,743,694)	\$ (12,759,033)	\$ (18,536,554)	\$ (21,631,879)	\$ (29,132,860)	\$ (36,330,588)	\$ (39,461,406)	\$ (39,571,530)	\$ (43,887,947)	\$ (46,205,224)		
Revenue	\$ 737,800	\$ 641,000	\$ 503,200	\$ 477,700	\$ 348,500	\$ 570,700	\$ 851,530	\$ 1,014,470	\$ 1,166,200	\$ 1,356,600	\$ 1,951,600	\$ 7,667,700	
Expenditures	\$ 7,481,494	\$ 6,656,339	\$ 6,280,721	\$ 3,573,025	\$ 7,849,481	\$ 7,768,428	\$ 3,982,348	\$ 1,124,594	\$ 5,482,617	\$ 3,673,877	\$ 1,161,142	\$ 55,034,066	
<b>Ending Fund Balance</b>	<b>\$ (6,743,694)</b>	<b>\$ (12,759,033)</b>	<b>\$ (18,536,554)</b>	<b>\$ (21,631,879)</b>	<b>\$ (29,132,860)</b>	<b>\$ (36,330,588)</b>	<b>\$ (39,461,406)</b>	<b>\$ (39,571,530)</b>	<b>\$ (43,887,947)</b>	<b>\$ (46,205,224)</b>	<b>\$ (45,414,766)</b>		

The following are the items that A.R.S. §11-1102(P) requires the annual report to include:

**(1) The amount assessed by the County for each type of development fee.**

*The Central Yavapai County Roadway Development Fee (Western Benefit Area) was \$1,200 and the Verde Valley Road Development Fee (Eastern Benefit Area) was \$1,100 per new residential dwelling unit. These fees were effective September 1, 1998. These fees are used to fund projects within the Yavapai County Regional Road Capital Improvement Program.*

*On June 4, 2007, the Board of Supervisors approved a new roadway development fee in the amount of \$3,400. This new fee will be assessed on every new residential dwelling unit within unincorporated Yavapai County.*

*The new fee was effective September 4, 2007, and superseded the existing two roadway development fees.*

**(2) The balance of each fund maintained for each type of development fee assessed as of the beginning and end of the fiscal year.**

*There is a negative balance for the eastern, western, and new County wide roadway development fee for the beginning and end of the fiscal year (See Table 1, “Yavapai County Roadway Development Fee Collection for Fiscal Years 1998/1999 through 2017/2018.”*

*Table 1 shows a negative balance for the benefit areas based on the County’s half cent sales tax funding the majority of the expenditures in the Regional Road Capital Improvement Program in comparison to the amount of Roadway Development Fees.*

*The spreadsheet provided in the Appendix indicates the shift in expenditures during FY 2007/2008 through FY 2017/2018 to the County wide roadway development fee projects.*

**(3) The amount of interest or other earnings on the monies in each fund as of the end of the fiscal year.**

*Based on the summary provided in Table 1 there is no interest earned or reported.*

**(4) The amount of development fee monies used to repay:**

- (a) Bonds issued by the County to pay the cost of a necessary public service that is the subject of a development fee assessment, including the amount needed to repay the debt service obligations on each facility for which development fees have been identified as the source of funding and the time frames in which the debt service will be repaid.**

*No bonds have been issued by Yavapai County to fund capital improvements that are subject to a roadway development fee assessment for fiscal year 2017/2018. All outstanding issued bonds to fund the construction of improvements for qualified roadway*

*development fee projects have been repaid prior to the beginning of fiscal year 2017/2018.*

**(b) Monies advanced by the County from funds other than the funds established for development fees in order to pay the cost of a necessary public service that is the subject of a development fees assessment, the total amount advanced by the county for each facility, the source of the monies advanced and the terms under which the monies will be repaid to the county.**

*The Regional Road Capital Improvement Plan is funded through roadway development fees and a portion of the County's sales tax. The deficit shown in Table 1 is funded through a portion of the County's sales tax.*

**(5) The amount of development fee monies spent on each necessary public service or facility expansion that is the subject of a development fees assessment and the physical location of each capital improvement project.**

*In FY 2017/2018 the following expenditures occurred on projects subject to roadway development fees:*

- *County Wide Benefit Area (total expenditures \$1,161,142)*
  - i. SR260 Camp Verde to Cottonwood (Camp Verde Area) - \$330,000*
  - ii. Middle Verde/Cornville Road Connector Design, NEPA, ROW - \$159,004*
  - iii. Dry Creek Road (Sedona Area) - \$50,690*
  - iv. Williamson Valley Rd Widening and Recon. (Prescott Area) - \$621,448*

**(6) The amount of development fee monies spent for each purpose other than a necessary public service or facility expansion that is the subject of a development fees assessment.**

*All roadway development fees are spent on a necessary public service or facility expansion project subject to development fee assessment.*

State legislation regarding roadway development fees for counties per A.R.S. §11-1102 has recently changed. Development fees that were adopted before January 1, 2017 may continue to be assessed only to the extent that the development fees will be used to provide a necessary public service until January 1, 2021. Yavapai County's current roadway development fee program was adopted on September 4, 2007 and improvements identified in the adopted development fee projects plan are a necessary public service. Yavapai County believes that this report fills the requirements as set for the annual report during the transition period only. If roadway development fees are to be continued beyond January 1, 2021 an analysis of the current program will need to be completed prior to January 1, 2021 and any changes implemented prior to that date.

In summary, A.R.S. §11-1102(Q) requires that the County submit a copy of the annual report to the Clerk of the Board of Supervisors within ninety days following the end of each fiscal year and post the annual report on the county's website. Copies shall be made available to

the public on request. The annual report may contain financial information that has not been audited.

# **APPENDIX**



11-1102. County development fees; imposition by counties; infrastructure improvements plan; advisory committee; annual report; limitation on actions; definitions

A. A county may assess development fees to offset costs to the county associated with providing necessary public services to a development, including the costs of infrastructure, improvements, real property, engineering and architectural services, financing and professional services required for the preparation or revision of a development fee pursuant to this section, including the relevant portion of the infrastructure improvements plan.

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

1. Development fees shall result in a beneficial use to the development.
2. The county shall calculate the development fee based on the infrastructure improvements plan adopted pursuant to this section.
3. The development fees may not exceed a proportionate share of the cost of necessary public services, based on service units, needed to provide necessary public services to the development.
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 service area at the time the infrastructure improvements plan is adopted.
5. Development fees may not be used for any of the following:
  - (a) Funding a level of service that is higher than the current level of service provided to existing development at the time the infrastructure improvements plan is adopted.
  - (b) Construction, acquisition or expansion of public facilities or assets other than necessary public services or facility expansions identified in the infrastructure improvements plan.
  - (c) Repair, operation or maintenance of existing or new necessary public services or facility expansions.
  - (d) Upgrading, updating, expanding, correcting or replacing existing necessary public services to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards.
  - (e) Upgrading, updating, expanding, correcting or replacing existing necessary public services to provide a higher level of service to existing development.
  - (f) Administrative, maintenance or operating costs of the county.
6. Any development for which development fees have been paid is entitled to the use and benefit of the services for which the development fees were imposed and is entitled to receive immediate service from any existing facility with available capacity to serve the new service units if the available capacity has not been reserved or pledged in connection with the construction or financing of the facility.
7. Development fees may be collected if any of the following occurs:
  - (a) The collection is made to pay for a necessary public service or facility expansion that is identified in the infrastructure improvements plan and the county plans to complete construction and have the service available within the time period established in the infrastructure improvements plan, but not longer than the time period provided in subsection J, paragraph 3 of this section.
  - (b) The county reserves capacity in the infrastructure improvements plan adopted pursuant to this section or otherwise agrees to reserve capacity to serve future development.

(c) The county requires or agrees to allow the owner of a development to construct or finance the necessary public service or facility expansion and any of the following applies:

(i) The costs incurred or monies advanced are credited against or reimbursed from the development fees otherwise due from a development. The amount of credits issued shall equal the costs identified by the county in the infrastructure improvements plan associated with the construction of the necessary public services or facility expansions. The county shall allow the owner to assign the credits from the development fees otherwise due from a development and any excess credits to other developments for the same category of necessary public services in the same service area.

(ii) The county reimburses the owner for those costs from the development fees paid from all developments that will use those necessary public services or facility expansions. The county shall allow the owner to assign the reimbursement rights to other developments for the same category of necessary public services in the same service area.

8. Projected interest charges and other finance costs may be included in determining the amount of development fees only if the monies are used for the payment of principal and interest on the portion of the bonds, notes or other obligations issued to finance construction of necessary public services or facility expansions identified in the infrastructure improvements plan.

9. Monies received from development fees shall be placed in a separate fund and accounted for separately and may only be used for the purposes authorized by this section. Monies received from development fees identified in an infrastructure improvements plan adopted or updated pursuant to subsection E of this section shall be used to provide the same category of necessary public services or facilities expansions for which the development fee was assessed and for the benefit of the same service area as defined in the infrastructure improvements plan in which the development fees were assessed. Interest earned on monies in the separate fund shall be credited to the fund.

10. The county shall prescribe the schedule for paying the development fees. Based on the costs identified in the infrastructure improvements plan, the county shall provide a credit toward the payment of the development fees for the required or agreed to dedication of public sites, improvements and other necessary public services or facility expansions included in the infrastructure improvements plan and for which development fees are assessed, to the extent the public sites, improvements and necessary public services or facility expansions are provided by the developer. On request of the developer, instead of providing a credit toward the payment of development fees, the county shall provide for reimbursement from the development fees paid from all development that will use those public sites, improvements or necessary public services or facility expansions of the actual costs of the required or agreed to dedication of public sites, improvements or other necessary public services or facility expansions included in the infrastructure improvements plan and for which development fees are assessed, to the extent the public sites, improvements and necessary public services or facility expansions are provided by the developer. The developer of residential dwelling units shall be required to pay the fees when construction permits for the dwelling units are issued, or at a later time if specified in the development agreement pursuant to section 11-1101. If a development agreement provides for development fees to be paid at a time later than the issuance of construction permits, the deferred development fees shall be paid not later than fifteen days after the issuance of a certificate of occupancy. The development agreement shall provide for the value of any deferred development fees to be supported by an appropriate security, including a surety bond, letter of credit or cash bond.

11. If a county requires as a condition of development approval the construction or improvement of, contributions to or dedication of any facilities that were not included in a previously adopted infrastructure improvements plan, the county shall cause the infrastructure improvements plan to be amended to include the facilities and shall provide a credit toward the payment of development fees for the construction, improvement, contribution or dedication of the facilities to the extent that the facilities will substitute for or otherwise reduce the need for other similar facilities in the infrastructure improvements plan for which development fees were assessed. If a county requires as a condition of development approval the set aside of active or passive open space, the county shall issue a credit toward any development fees identified in the infrastructure improvements

plan to fund any park facilities or facility expansion. On request of the individual or entity seeking development approval, instead of issuing a credit toward the payment of development fees, the county shall provide for reimbursement from the development fees paid from all development that will use those facilities or facility expansions of the actual costs of the construction or improvement of, contributions to or dedication of the public facilities required as a condition of development approval.

12. The county shall forecast the contribution to be made in the future in cash, taxes, fees, assessments and all other sources of revenue derived from the property owner towards the capital costs of the necessary public service covered by the development fees.

13. If development fees are assessed against residential development, the county shall also assess development fees against commercial and industrial development. The county may distinguish between different categories of residential, commercial and industrial development in assessing the costs to the county of providing necessary public services to new development and in determining the amount of the development fees applicable to the category, except that the county may not distinguish residential developments on the basis of the size of the dwelling unit or number of bedrooms. If a county agrees to waive any of the development fees assessed on a development, the county shall reimburse the appropriate development fees accounts for the amount that was waived. The county shall provide notice of any such waiver to the advisory committee established pursuant to subsection I of this section.

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

15. The county shall not assess or collect development fees from a school district or charter school, other than fees assessed or collected for streets and water and wastewater utility functions.

C. Before assessing development fees, the county shall:

1. Give at least thirty days' advance notice of intention to assess new or increased development fees.
2. Release to the public and post on the county's website a written report of the land use assumptions and infrastructure improvements plan adopted pursuant to subsection E of this section.
3. Conduct a public hearing on the proposed development fees at any time after the expiration of the thirty-day notice of intention to assess development fees and at least thirty days before the scheduled date of adoption of the development fees. Within sixty days after the date of the public hearing on the proposed development fees, the county shall approve or disapprove the imposition of the development fees. A county may not adopt an ordinance, order or resolution approving development fees as an emergency measure.

D. Development fees assessed pursuant to this section are not effective for at least ninety days after formal adoption by the board of supervisors.

E. Before the adoption or amendment of development fees or amendment of the boundaries of a service area, the board of supervisors shall adopt or update the land use assumptions and infrastructure improvements plan for the designated service area. The county shall conduct a public hearing on the land use assumptions and infrastructure improvements plan at least thirty days before the adoption or update of the infrastructure improvements plan. The county shall release the infrastructure improvements plan to the public, post the infrastructure improvements plan on the county's website, including in the posting the land use assumptions, the time period of the projections, a description of the necessary public services included in the infrastructure improvements plan and a map of the service area to which the land use assumptions apply, make available to the public the documents used to prepare the land use assumptions and infrastructure improvements plan and provide public notice at least sixty days before the public hearing, subject to the following:

1. The land use assumptions and infrastructure improvements plan shall be approved or disapproved within sixty days after the public hearing on the land use assumptions and infrastructure improvements plan and at least thirty days before the public hearing on the report required by subsection C of this section. A county may not adopt an ordinance, order or resolution approving the land use assumptions or infrastructure improvements plan as an emergency measure.
2. An infrastructure improvements plan shall be developed by qualified professionals using generally accepted engineering and planning practices pursuant to subsection F of this section.
3. A county shall update the land use assumptions and infrastructure improvements plan at least every five years. The initial five-year period begins on the day the infrastructure improvements plan is adopted. The county shall review and evaluate the current land use assumptions and shall cause an update of the infrastructure improvements plan to be prepared pursuant to this section.
4. Within sixty days after completion of the updated land use assumptions and infrastructure improvements plan, the county shall schedule and provide notice of a public hearing to discuss and review the update and shall determine whether to amend the land use assumptions and infrastructure improvements plan.
5. A county shall hold a public hearing to discuss the proposed amendments to the land use assumptions, the infrastructure improvements plan or the development fees. The land use assumptions and the infrastructure improvements plan, including the amount of any proposed changes to the development fees per service unit, shall be made available to the public on or before the date of the first publication of the notice of the hearing on the amendments.
6. The hearing procedures prescribed in paragraph 1 of this subsection apply to a hearing on the amendment of land use assumptions, an infrastructure improvements plan or development fees. Within sixty days after the date of the public hearing on the amendments, a county shall approve or disapprove the amendments to the land use assumptions, infrastructure improvements plan or development fees. A county may not adopt an ordinance, order or resolution approving the amended land use assumptions, infrastructure improvements plan or development fees as an emergency measure.
7. The advisory committee established under subsection I of this section shall file its written comments on any proposed or updated land use assumptions, infrastructure improvements plan and development fees before the fifth business day before the date of the public hearing on the proposed or updated land use assumptions, infrastructure improvements plan and development fees.
8. If, at the time an update as prescribed in paragraph 3 of this subsection is required, the county determines that no changes to the land use assumptions, infrastructure improvements plan or development fees are needed, the county, as an alternative to the updating requirements of this subsection, may publish notice of the determination on the county's website that includes the following:
  - (a) A statement that the county has determined that no change to the land use assumptions, infrastructure improvements plan or development fees is necessary.
  - (b) A description and map of the service area in which an update has been determined to be unnecessary.
  - (c) A statement that by a specified date, which shall be at least sixty days after the date of publication of the first notice, a person may request to the county in writing that the county update the land use assumptions, infrastructure improvements plan or development fees.
  - (d) A statement identifying the person or entity to whom the written request for an update should be sent.
9. If, by the date specified pursuant to paragraph 8 of this subsection, a person requests in writing that the county update the land use assumptions, infrastructure improvements plan or development fees, the county shall cause,

accept or reject an update of the land use assumptions, infrastructure improvements plan or development fees to be prepared pursuant to this section.

10. Notwithstanding the notice and hearing requirements for adoption of an infrastructure improvements plan, the county may amend an infrastructure improvements plan without a public hearing if the amendment addresses only elements of necessary public services in the existing infrastructure improvements plan and the changes to the plan will not, individually or cumulatively with other amendments adopted pursuant to this subsection, increase the level of service in the service area or cause an increase in development fees that is greater than five percent when new or modified development fees are assessed pursuant to this section. The county shall provide notice of the amendment at least thirty days before adoption, shall post the amendment on the county's website and shall provide notice to the advisory committee established pursuant to subsection I of this section that the amendment complies with this subsection.

F. For each necessary public service that is the subject of development fees, the infrastructure improvements plan shall include:

1. A description of the existing necessary public services in the service area and the costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards. The description shall be prepared by qualified professionals who are licensed in this state, as applicable.

2. An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services. The analysis shall be prepared by qualified professionals who are licensed in this state, as applicable.

3. A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, including a forecast of the cost of infrastructure, improvements, real property, financing, engineering and architectural services. The description shall be prepared by qualified professionals who are licensed in this state, as applicable.

4. A table that establishes the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table that establishes the ratio of a service unit to various types of land uses, including residential, commercial and industrial.

5. A description of all the costs necessitated by ongoing maintenance and operations of the necessary public services once construction is completed and a description of the source of revenue to be used to fund the maintenance and operations.

6. The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria.

7. The projected demand for necessary public services or facility expansions required by new service units for a period of not more than ten years.

8. A forecast of revenues generated by new service units other than development fees, including estimated state shared revenue, highway user 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, and a plan to include these contributions in determining the extent of the burden imposed by the development as required in subsection B, paragraph 12 of this section.

G. A county's infrastructure improvements plan may identify necessary public services or facility expansions that the county plans to construct beyond the time period provided for in subsection J, paragraph 3 of this section

but may not include the costs of those necessary public services or facility expansions in the calculation of development fees.

H. A county's development fees ordinance shall provide:

1. That new development fees or an increased portion of modified development fees may not be assessed against a development for twenty-four months after the date that the county issues the final approval for a commercial, industrial or multifamily development or the date that the first building permit is issued for a residential development pursuant to an approved site plan or subdivision plat, only if subsequent changes are not made to the approved site plan or subdivision plat that would increase the number of service units. If the number of service units increases, the new or increased portion of modified development fees shall be limited to the amount attributable to the additional service units. The period is not extended by a renewal or amendment of the site plan or the final subdivision plat that was the subject of the final approval. The county shall issue, on request, a written statement of the development fees schedule applicable to the development. If, after the date of the county's final approval of a development, the county reduces the development fees assessed on development, the reduced fees shall apply to the development.

2. A process for a development to request an alternative development fee calculation or change in category of development that appears on an adopted development fee schedule based on a projection that the actual burdens and costs associated with the county's provision of necessary public services or facility expansions to the development that are to be paid by development fees will differ substantially from those costs projected by the county or will be substantially less than the amount projected to be paid by development fees. The county manager or the county manager's designee shall review the request and make a determination as to the development fee to be assessed. The assessed development fee shall have a substantial nexus to the actual burdens and costs associated with providing the necessary public services or facility expansions to that development that are to be funded by development fees. The determination of the county manager is appealable to the board of supervisors.

I. A county shall do one of the following:

1. Before the adoption of the proposed or updated land use assumptions, infrastructure improvements plan and development fees as prescribed in subsection E of this section, appoint an infrastructure improvements advisory committee, subject to the following requirements:

(a) The advisory committee shall be composed of at least five members who are appointed by the board of supervisors. At least fifty percent of the members of the advisory committee must be representatives of the real estate, development or building industries, of which at least one member of the committee must be from the home building industry. Members may not be employees or officials of the county.

(b) The advisory committee shall serve in an advisory capacity and shall:

(i) Advise the county in adopting land use assumptions and in determining whether the assumptions are in conformance with the general plan of the county.

(ii) Review the infrastructure improvements plan and file written comments.

(iii) Monitor and evaluate implementation of the infrastructure improvements plan.

(iv) Every year file reports with respect to the progress of the infrastructure improvements plan and the collection and expenditures of development fees and report to the county any perceived inequities in implementing the infrastructure improvements plan or assessing the development fees.

(v) Advise the county of the need to update or revise the land use assumptions, infrastructure improvements plan and development fees.

(c) The county shall make available to the advisory committee any professional reports with respect to developing and implementing the infrastructure improvements plan.

(d) The county shall adopt procedural rules for the advisory committee to follow in carrying out the advisory committee's duties.

2. Provide for a biennial certified audit of the county's land use assumptions, infrastructure improvements plan and development fees. An audit pursuant to this paragraph shall be conducted by one or more qualified professionals who are not employees or officials of the county and who did not prepare the infrastructure improvements plan. The audit shall review the progress of the infrastructure improvements plan, including the collection and expenditures of development fees for each project in the infrastructure improvements plan, and evaluate any inequities in implementing the infrastructure improvements plan or imposing the development fees. The county shall post the findings of the audit on the county's website and shall conduct a public hearing on the audit within sixty days after the release of the audit to the public.

J. On written request, an owner of real property for which development fees have been paid after December 31, 2020 is entitled to a refund of the development fees or any part of the development fees if:

1. Pursuant to subsection B, paragraph 6 of this section, existing facilities are available and service is not provided.

2. The county, after collecting the fees to construct a facility when service is not available, has failed to complete construction within the time period identified in the infrastructure improvements plan, but in no event later than the time period specified in paragraph 3 of this subsection.

3. For development fees other than development fees for water or wastewater facilities, any part of the development fees is not spent as authorized by this section within ten years after the fees have been paid or, for development fees for water or wastewater facilities, any part of the development fees is not spent as authorized by this section within fifteen years after the development fees have been paid.

K. If the development fees were collected for the construction of all or a portion of a specific item of infrastructure, and on completion of the infrastructure the county determines that the actual cost of construction was less than the forecasted cost of construction on which the development fees were based and the difference between the actual and estimated cost is greater than ten percent, the current owner may receive a refund of the portion of the development fees equal to the difference between the development fees paid and the development fees that would have been due if the development fees had been calculated at the actual construction cost.

L. A refund shall include any interest earned by the county from the date of collection to the date of refund on the amount of the refunded fees. All refunds shall be paid to the owner of record of the property at the time the refund is paid. If the development fees are paid by a governmental entity, the refund shall be paid to the governmental entity.

M. Development fees that were adopted before January 1, 2017 may continue to be assessed only to the extent that the development fees will be used to provide a necessary public service for which development fees can be assessed pursuant to this section and shall be replaced by development fees imposed under this section on or before January 1, 2021. Any county having development fees that have not been replaced under this section on or before January 1, 2021 may not collect development fees until the development fees have been replaced with fees that comply with this section. Development fees adopted or amended by a county after January 1, 2017 shall comply with this section. Any development fees monies collected before January 1, 2017 remaining in a development fees account:

1. Shall be used towards the same category of necessary public services as authorized by this section.

2. And collected for a purpose not authorized by this section shall be used for the purpose for which the development fees were collected on or before January 1, 2024, and after which, if not spent, shall be distributed

equally among the categories of necessary public services authorized by this section.

N. A moratorium may not be placed on development for the sole purpose of awaiting completion of all or any part of the process necessary to develop, adopt or update development fees.

O. In any judicial action interpreting this section all powers conferred on a county by this section shall be narrowly construed to ensure that development fees are not used to impose on new residents a burden all taxpayers of a county should bear equally.

P. Each county that assesses development fees shall submit an annual report accounting for the collection and use of the fees for each service area. The annual report shall include the following:

1. The amount assessed by the county for each type of development fee.
2. The balance of each fund maintained for each type of development fee assessed as of the beginning and end of the fiscal year.
3. The amount of interest or other earnings on the monies in each fund as of the end of the fiscal year.
4. The amount of development fee monies used to repay:
  - (a) Bonds issued by the county to pay the cost of a necessary public service that is the subject of a development fees assessment, including the amount needed to repay the debt service obligations on each facility for which development fees have been identified as the source of funding and the time frames in which the debt service will be repaid.
  - (b) Monies advanced by the county from funds other than the funds established for development fees in order to pay the cost of a necessary public service that is the subject of a development fees assessment, the total amount advanced by the county for each facility, the source of the monies advanced and the terms under which the monies will be repaid to the county.
5. The amount of development fees monies spent on each necessary public service or facility expansion that is the subject of a development fees assessment and the physical location of each capital improvement project.
6. The amount of development fees monies spent for each purpose other than a necessary public service or facility expansion that is the subject of a development fees assessment.

Q. Within ninety days following the end of each fiscal year, each county shall submit a copy of the annual report to the clerk of the board of supervisors and post the annual report on the county's website. Copies shall be made available to the public on request. The annual report may contain financial information that has not been audited.

R. A county that fails to file the report and post the annual report on the county's website as required by this section shall not collect development fees until the report is filed and posted.

S. Any action to collect development fees shall be commenced within two years after the obligation to pay the development fees accrues.

T. A county may continue to assess development fees adopted before January 1, 2017 for any facility that was financed before June 1, 2016 if:

1. Development fees were pledged to repay debt service obligations related to the construction of the facility.
2. After January 1, 2018, any development fees collected under this subsection are used solely for the payment of principal and interest on the portion of the bonds, notes or other debt service obligations issued before June 1, 2016 to finance construction of the facility.



U. Through January 1, 2018, development fees adopted before January 1, 2017 may be used to finance construction of a facility and may be pledged to repay debt service obligations if:

1. The facility that is being financed is a facility that is described under subsection V, paragraph 7, subdivision (a), (b), (c), (d) or (e) of this section.
2. The facility was included in an infrastructure improvements plan adopted before June 1, 2016.
3. The development fees are used for the payment of principal and interest on the portion of the bonds, notes or other debt service obligations issued to finance construction of the necessary public services or facility expansions identified in the infrastructure improvements plan.

V. For the purposes of this section:

1. "Dedication" means the actual conveyance date or the date an improvement, facility or real or personal property is placed into service, whichever occurs first.

2. "Development" means:

(a) The subdivision of land.

(b) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure that adds or increases the number of service units.

(c) Any use or extension of the use of land that increases the number of service units.

3. "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise new necessary public service in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.

4. "Final approval" means, for nonresidential or multifamily development, the approval of a site plan or, if no site plan is submitted for the development, the approval of a final subdivision plat.

5. "Infrastructure improvements plan" means a written plan that identifies each necessary public service or facility expansion that is proposed to be the subject of development fees and otherwise complies with the requirements of this section and may be the county's capital improvements plan.

6. "Land use assumptions" means projections of changes in land uses, densities, intensities and population for a specified service area over a period of at least ten years and pursuant to the general plan of the county.

7. "Necessary public service" means any of the following facilities that have a life expectancy of three or more years and that are owned and operated by or on behalf of the county:

(a) Water facilities, including the supply, transportation, treatment, purification and distribution of water, and any appurtenances for those facilities.

(b) Wastewater facilities, including collection, interception, transportation, treatment and disposal of wastewater, and any appurtenances for those facilities.

(c) Street facilities located in the service area, including arterial or collector streets or roads that have been designated on an officially adopted plan of the county, traffic signals and rights-of-way and improvements thereon. Improvements to rights-of-way do not include streetcars, railways or other forms of transportation and their corresponding tracks.

(d) Public safety facilities, including all appurtenances, equipment and vehicles. Public safety facilities do not include a facility or portion of a facility that is used to replace services that were once provided elsewhere in the county, vehicles and equipment used to provide administrative services, helicopters or airplanes, paramilitary vehicles, court and judicial facilities, facilities that are used for training firefighters or officers from more than one station or substation or jail, correctional or detention facilities.

(e) Neighborhood parks and recreational facilities on real property up to thirty acres in area, or parks and recreational facilities larger than thirty acres if the facilities provide a direct benefit to the development. Parks and recreational facilities do not include vehicles, equipment of that portion of any facility that is used for amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, trails, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, zoo facilities or similar recreational facilities, but may include swimming pools and equipment or improvements constituting accessory or incidental amenities to a park or recreational facility allowed under this section.

(f) Any facility that was financed and that meets all of the requirements prescribed in subsection T of this section.

8. "Qualified professional" means a professional engineer, surveyor, financial analyst or planner providing services within the scope of the person's license, education or experience.

9. "Service area" means any specified area within the boundaries of a county in which development will be served by necessary public services or facility expansions and within which a substantial nexus exists between the necessary public services or facility expansions and the development being served as prescribed in the infrastructure improvements plan.

10. "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated using data specific to the service area in which the facility will be located and pursuant to generally accepted engineering or planning standards for a particular category of necessary public services or facility expansions.

**ORDINANCE NO. 2014-1**

**“YAVAPAI COUNTY ROADWAY DEVELOPMENT FEE ORDINANCE”**

The Yavapai County Board of Supervisors finds and declares that:

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

**I. GENERAL PROVISIONS**

**A. Legislative Intent and Purpose**

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

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

## **B. Definitions**

In this Ordinance, unless the context requires otherwise:

1. “Building Permit” means the permit required for construction as determined pursuant to Planning and Zoning Ordinance and the adoptive ordinance for the Building Code. The term “Building Permit” shall not include a permit required for reconstruction of a structure if the reconstruction does not reflect a change in the number of dwelling units applicable to the development. If the reconstruction increases the number of dwelling units applicable to the development, the regional and subregional development fees for roadways shall be based upon the amount of the increase. For the purposes of this ordinance, the term “Building Permit” shall include the permit or approval required from Yavapai County for the placement and occupancy of a mobile home or manufactured home (as defined in Section 301 of the Yavapai County Planning and Zoning Ordinance), multisectional manufactured home (as defined in Section 301 of the Yavapai County Planning and Zoning Ordinance) or factory-built building (modular). For the purposes of this Ordinance, the term “Building Permit” shall include a zoning clearance.
  
2. “Development Agreement” means an agreement between Yavapai County and either a community facilities district pursuant to A.R.S. § 48-709, Subsection C, a landowner or any other person having an interest in real property that may specify or is otherwise related to any of the following:
  - (a) The duration of the agreement.
  - (b) The permitted uses of property subject to the development agreement.
  - (c) The density and intensity of uses and the maximum height and size of proposed buildings within such property.
  - (d) Provisions for reservation or dedication of land for public purposes and provisions to protect environmentally sensitive lands.
  - (e) Provisions for preservation and restoration of historic structures.
  - (f) The phasing or time of construction or development on property subject to the agreement.
  - (g) Conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure and subsequent reimbursements over time.

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

**C. Applicability**

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

**II. PROCEDURES FOR ADOPTION OF ROADWAY DEVELOPMENT FEES**

**A. Roadway Development Fee Projects Plan**

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

## **B. Regional and Subregional Roadway Needs Assessment**

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

## **C. Roadway Benefit Area Plan (BAP)**

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

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

## **D. Recoupment of Costs of Excess Capacity**

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

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

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

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

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

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

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

**G. New or Increased Roadway Development Fee; Effective Date**

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

**H. Recordation of Benefit Area Plan**

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

### **III. ADMINISTRATIVE PROVISIONS**

#### **A. Credits**

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

#### **B. Application of Roadway Development Fees**

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

#### **C. Administration of Roadway Development Fees**

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



## D. Appeals and Refunds; Procedures

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

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

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

**E. Infrastructure not included in BAP**

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

**F. Notification in Real Estate Closing Documents**

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

**G. Waiver of Fee**

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

**H. Prior Ordinances, Resolutions, Rules or Regulations Repealed**

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

**I. Effective Date**

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

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

/s/ Rowle P. Simmons

Rowle P. Simmons, Chairman  
Yavapai County Board of Supervisors

ATTEST:

/s/ Ana Wayman-Trujillo

Ana Wayman-Trujillo  
Clerk of the Board

