

ORDINANCE NO. 2020-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, CHAPTER 3-11 DEVELOPMENT FEES, TO ASSESS DEVELOPMENT FEES ON NEW DEVELOPMENT; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff is authorized pursuant to Arizona Revised Statutes § 9-463.05 to assess development fees on new development to offset costs to the municipality associated with providing necessary public services, the demand for which is created by new development; and

WHEREAS, on October 21, 2008, the City Council adopted Ordinance No. 2008-28, an ordinance that provided for, among other things, a police and fire protection development fee pursuant to A.R.S. 9-463.05; and

WHEREAS, on April 26, 2011, Governor Jan Brewer signed into law SB 1525, a bill that significantly amended A.R.S 9-463.05 by, among other things, changing how fees are calculated and how municipalities are to administer them; and

WHEREAS, on December 20, 2011, the City Council adopted Ordinance No. 2011-32, an ordinance that, among other things, revised the City's police and fire protection development fees pursuant to SB 1525; and

WHEREAS, on May 14, 2014, the City Council adopted Ordinance No. 2014-10, an ordinance that provided additional revisions to the City's police and fire protection development fees pursuant to SB 1525; and

WHEREAS, the City has commissioned, and the City's consultant TischlerBise has conducted, an analysis of the City's police and fire protection development fees in accordance with A.R.S. 9-463.05; and

WHEREAS, the City Council has reviewed the conclusions of TischlerBise, has reviewed the proposed adjustments to the City's police and fire protection development fees, and has determined that revisions to these development fees are necessary.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Adoption of the Development Fee Study

The City Council adopted the Land Use Assumptions and Infrastructure Improvement Plan

prepared by TischlerBise on April 7, 2020 and the Development Fee Study prepared by TischlerBise on October 20, 2020. The Land Use Assumptions, Infrastructure Improvement Plan and Development Fee Study attached hereto as Exhibit A and incorporated herein supports the development fees adopted by this Ordinance.

SECTION 2. In General

That Title 3 of the Flagstaff City Code, Business Regulations, Chapter 3-11 Development Fees, is hereby amended as follows:

Division 3-11-001

In General

Section 3-11-001-0002 Definitions

Except as otherwise indicated herein, the words or phrases used herein shall have the meaning prescribed in Chapter 10-~~80~~14 of Land Development Code of the City of Flagstaff **Zoning Code**:

D. Infrastructure Improvement Plan and Development Fee Study ("IIP and Fee Study"): a report prepared in support of **the ordinance adopting a Development Fee, No. 2008-28** by TischlerBise, dated August 28, 2007 which report sets forth the methodology and basis for the calculation of the impact of new development and the proper and proportional amount of the development fee to be assessed against new development as required by Arizona Revised Statutes § [9-463.05\(C\)](#).

G. **Multi-Family Residential: a minimum of 3 residential dwelling units permitted under the same building permit application.**

GH. New Development: any new construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use which requires a building permit or any change in use of an existing building, structure, or lot requiring any form of City approval, which increases the demand for one (1) or more Public Facilities, except as otherwise provided in § ~~340-11~~48-001-0003 of this Chapter.

H. ~~Office: See Division 10-03-002-0005 A.~~

I. Offset: a waiver, reimbursement, or credit of certain required development fees, pursuant to § ~~340-11~~48-002-0003, in exchange for the provision by the applicant of, among other things, monetary contributions, dedication of land, or actual construction of all or part of a Public Facility included within the first five years of the City's IIP.

L. Single-Family Detached Dwelling **Residential: means a maximum of two attached or detached dwellings under individual building permit applications.** ~~designed and used for single-family use as defined in § 10-03-002-0003.~~

Section 3-11-001-0003 General Provisions; Applicability

D. Type of Development Not Affected. This Chapter shall not apply to:

2. No Net Increase in Dwellings **or Bedrooms**. No development fee shall be imposed on any new residential development that does not result in the creation of a new dwelling **or increase in number of bedrooms**.

E. Effect of Payment of Development Fees on Other Applicable City Land Use, Zoning, Platting, Subdivision or Development Regulations.

2. This Chapter shall not affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards or other applicable standards or requirements of the City of Flagstaff **Zoning Land Development Code**, which shall be operative and remain in full force and effect without limitation.

Division 3-11-002

Procedures for Imposition, Calculation and Collection of Development Fees

Section 3-11-002-0002 Calculation

A. Upon receipt of an application for a building permit, the City shall determine (a) whether it is a residential or non-residential use, (b) the specific category of residential or non-residential development, if applicable, (c) if residential, the number of new dwellings **and/or bedrooms**, and (d) if non-residential, the number of new or additional square feet of gross floor area or hotel rooms of the proposed use.

D. If the type of land use proposed for new development is not expressly listed in the particular development fee ordinance and schedule, the City shall:

3. at the option of the applicant or Planning Director, determine the basis used to calculate the fee pursuant to an independent impact analysis for development fee calculation. Whether initiated by the applicant or the Planning Director, the following shall apply:

(d) The final decision of the Planning Director may be appealed pursuant to Division **340-1148-004** of this Chapter.

Section 3-11-002-0003 Offsets

D. The amount of an excess contribution, if any, shall be determined by the City upon receipt of a request for an offset; provided, however, that (a) the City will grant no offset for excess contributions from development fee funds unless and until the particular development fee account has sufficient revenue to make the offset without jeopardizing the continuity of the City's Infrastructure Improvement Plan and (b) the excess contribution may not be transferred or credited to any other category of Public Facility development fees calculated to be due from that development. However, nothing herein shall prohibit the City from contributing non-development fee funding to a developer's excess contribution. The determination of the eligibility for and the amount of the offset shall be made by the City. If the applicant contends that any aspect of the City's decision constitutes an abuse of discretion, the applicant shall be entitled to appeal pursuant to Division **340-1148-004** of this Chapter.

Division 3-11-003

Establishment of Development Fee Accounts; Appropriation of Development Fee Funds; and Refunds

Section 3-11-003-0002 Appropriation of Development Fee Funds

A. In General. Subject to the provisions of § ~~340-1148-003-0002~~(B)(2), below, development fee funds may be appropriated for Public Facilities, Public Facility expenditures, and the payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the City to finance Public Facilities and Public Facility Expenditures.

Section 3-11-003-0003 Procedure for Appropriation of Development Fee Funds

A. Each year the City shall identify Public Facility projects anticipated to be funded in whole or in part with development fees. The Public Facility recommendations shall be based upon the development fee annual reports set forth in Division ~~340-1148-006~~ of this Chapter, and such other information as may be relevant, and may be part of the City’s annual budget and infrastructure improvements planning process.

Section 3-11-003-0004 Refunds

A. Eligibility.

2. Failure of City to appropriate Development Fee Funds Within Time Limit. The current property owner may apply for a refund of development fees paid by an applicant if the City has failed to appropriate the development fees collected from the applicant within the time limit established in §~~340-1148-003-0002~~.

F. Due to Timeliness. Applications for refunds due to the failure of the City to appropriate development fees collected from the applicant within the time limits established in §~~340-1148-003-0002~~ shall be made within one (1) year following the expiration of such time limit. The applicant shall submit: (a) evidence that the applicant is the property owner or the duly designated agent of the property owner, (b) the amount of the development fees paid by Public Facility category and receipts evidencing such payments, and (c) description and documentation of the City’s failure to appropriate development fee funds for relevant public facilities.

Division 3-11-007

Police and Fire Protection Development Fee

Section 3-11-007-0001 Development Fee for Residential Development

Residential (per housing unit)	Fire	Police	TOTAL
Single-family residential:	\$182	\$366	\$548
Multifamily residential:	\$170	\$342	\$512

Residential Development	Fees per Unit		
Development Type	Fire	Police	Total
Single-Family Units			
0-1 Bedrooms	\$778	\$385	\$1,163
2 Bedrooms	\$892	\$442	\$1,334
3 Bedrooms	\$1,071	\$531	\$1,602
4+ Bedrooms	\$1,357	\$672	\$2,029
Multi-Family Units			
0-1 Bedrooms	\$643	\$319	\$962
2 Bedrooms	\$896	\$444	\$1,340
3+ Bedrooms	\$1,352	\$670	\$2,022

Section 3-11-007-0002 Development Fee for Nonresidential Development

Nonresidential (per sq. ft. unless otherwise noted)	Fire	Police	TOTAL
Commercial:	\$0.29	\$0.59	\$0.88
Office:	\$0.11	\$0.23	\$0.34
Industrial Flex	\$0.03	\$0.08	\$0.11

Nonresidential Development	Fees per Square Foot		
Development Type	Fire	Police	Total
Industrial/Flex	\$0.40	\$0.10	\$0.50
Commercial/Retail	\$0.81	\$0.78	\$1.59
Office/Institutional	\$1.03	\$0.30	\$1.33
Hotel (per room)	\$202	\$263	\$465
Nursing Home (per bed)	\$364	\$96	\$460
Assisted Living (per bed)	\$212	\$82	\$294

SECTION 3. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 4. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the 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 decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 6. Effective Date

This Ordinance shall be effective seventy-five (75) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of November, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

Land Use Assumptions, Infrastructure Improvements Plan, and Development Fee Report