

ORDINANCE NO. 1521

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AMENDING THE APACHE JUNCTION CITY CODE, VOLUME II, LAND DEVELOPMENT CODE, BY REPEALING CHAPTER 7: DEVELOPMENT FEES IN ITS ENTIRETY; AND ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK ENTITLED "2022 AMENDMENTS TO THE APACHE JUNCTION CITY CODE, VOLUME II, LAND DEVELOPMENT CODE, CHAPTER 7: DEVELOPMENT FEES"; ESTABLISHING AN EFFECTIVE DATE AND A REVOLVING SIXTY MONTH REVIEW PERIOD; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, municipalities in Arizona have authority to impose development fees under Arizona Revised Statutes § 9-463.05; and

WHEREAS, the imposition of development fees is one of the preferred and most direct methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate new development; and

WHEREAS, the City originally adopted development fees for roads, police, parks, and library and municipal building facilities in December 1996, amended them in February 1998, August 2002, November 2005, March 2007, May 2014, and August 2019; and

WHEREAS, the legislature and homebuilder industry lobbyists have over the years amended A.R.S. § 9-463.05 so that it is increasingly more and more difficult for cities and towns to adopt basic development fees; and

WHEREAS, on January 18, 2022, TischlerBise presented a draft of the proposed IIP, LUAs, and development fee report to the mayor and city council at a work session; and

WHEREAS, on February 3, 2022, the City timely released to the public and posted on its website a written report of the anticipated April 5, 2022 IIP, LUAs, and development fee report public hearing; and

WHEREAS, the mandated 60 day public comment period on the IIP, LUAs, and development fee report for the public was February 4, 2022 through April 5, 2022; and

WHEREAS, on April 5, 2022, the city council held the public hearing on the proposed IIP, LUAs, and development fee report; and

WHEREAS, the second mandated 30 day public comment period for the IIP, LUAs, and development fee report was April 13, 2022 through May 15, 2022; and

WHEREAS, on May 17, 2022, the city council held the public hearing on the proposed IIP, LUAs and development fee report, and adopted the development fee report by Resolution No. 22-01; and

WHEREAS, on May 18, 2022, the City timely released to the public and posted on its website a notice of intention to assess development fees, proposed new development fees and notice of public hearing scheduled for July 5, 2022, and notice of the scheduled August 16, 2022 public hearing and adoption on the proposed Vol. II, Chapter 7: Development Fees, city code amendments; and

WHEREAS, on July 5, 2022, the city council held a public hearing on the proposed Chapter 7: Development Fees code amendments and development fee report; and

WHEREAS, the mandated 30 day public comment period for the development fee amendments was July 6, 2022 through August 4, 2022; and

WHEREAS, if adopted by the council, there is a mandated delayed effective date of at least 75 days from date of adoption; and

WHEREAS, the amended fees, if adopted on August 16, 2022, will be effective on October 31, 2022 as per A.R.S. § 9-463.05(C); and

WHEREAS, A.R.S. § 9-802 permits municipalities to enact the provisions of a code or public record in existence without setting forth such provisions in full text as long as the adopting ordinance is published in full text and at least three paper copies or one paper copy and one electronic copy are accessible on the city's website and are filed in the office of the city clerk of the municipality and are made available for public use and inspection; and

WHEREAS, pursuant to A.R.S. §§ 9-801 (1) and 9-802, codes which may be adopted by reference include those relating to development fees; and

WHEREAS, City staff has determined that for administrative efficiency, it is more appropriate to update the current development fees by repealing Apache Junction City Code, Volume II, Land Development Code, Chapter 7: Development Fees, in its entirety, and replacing it with an updated version.

THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, AS FOLLOWS:

SECTION I IN GENERAL

- A) Existing "Apache Junction City Code, Volume II, Land Development Code, Chapter 7: Development Fees", is hereby repealed.
- B) That certain document entitled "2022 Amendments to the Apache Junction City Code, Volume II, Land Development Code, Chapter 7: Development Fees", at least three paper copies or one paper copy and one electronic copy which are accessible on the city's website and filed in the office of the city clerk which document was made a public record by Resolution No. 22-02 of the City of Apache Junction, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, pursuant to A.R.S. § 9-802.

SECTION II ESTABLISHING AN EFFECTIVE DATE AND SIXTY MONTH REVIEW PERIOD

Pursuant to A.R.S. § 9-463.05, the provisions of this ordinance are effective October 31, 2022. Before the end of a sixty month review period after the effective date, staff shall reconsider the fees and provide a recommendation to council in compliance with A.R.S. § 9-463.05, as amended, for any fee changes.

SECTION III REPEALING ANY CONFLICTING ORDINANCES

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the codes adopted herein by reference are hereby repealed.

SECTION IV PROVIDING FOR SEVERABILITY

If any section, subsection, sentence, phrase, clause or portion of this ordinance or any part of the codes or regulations 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.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS _____ DAY OF _____, 2022.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2022.

WALTER "CHIP" WILSON
Mayor

ATTEST:

JENNIFER PENA
City Clerk

APPROVED AS TO FORM:

RICHARD J. STERN
City Attorney