

## **ORDINANCE NO. O2017-029**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING THE YUMA CITY CODE CHAPTER 157 CITY OF YUMA DEVELOPMENT FEES (SECTIONS: 01 AND 02) TO CORRECT THE USE OF WAIVERS AND INCLUDE THE INFILL OVERLAY DISTRICT AS AN AREA ELIGIBLE FOR A WAIVER OF DEVELOPMENT FEES**

WHEREAS, on September 7, 2005, the City adopted citywide development fees for new development to cover a portion of the costs necessitated by new development for capital public facilities; and,

WHEREAS, Arizona Revised Statutes (A.R.S.) §9-463.05, the development fee enabling act, identifies the use of credits to offset development fees in lieu of facility construction and waivers of development fees if the fees are paid from a non-development fee fund source; and,

WHEREAS, development activities that do not increase the number of service units do not create new demand for capital public facilities and therefore constitute an exemption from the requirement to pay development fees; and,

WHEREAS, this amendment to Chapter 157, City of Yuma Development Fees, of the Yuma City Code clarifies the differences and use of credits, waivers and exemptions; and,

WHEREAS, on June 21, 2017, the City Council adopted the Infill Incentive Plan which encourages infill development in the older, historic and established areas of the City of Yuma; and,

WHEREAS, the Infill Incentive Plan identifies various tools to encourage infill and redevelopment including flexible development standards and reductions in the cost of development; and,

WHEREAS, waivers of development fees are a tool to reduce the cost of development within the Infill Incentive Plan; and,

WHEREAS, Chapter 157 of the Yuma City Code identifies that projects located within adopted redevelopment plans are eligible for Development Fee waivers; and,

WHEREAS, this amendment to Chapter 157 of the Yuma City Code will include projects that are located within the Infill Overlay District to be eligible for Development Fee waivers upon City Council determination.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, Arizona, as follows:

SECTION 1: That the Yuma City Code, Title 15, Chapter 157 table of contents is amended to delete the following crossed-out text and add the following underlined text:

Section

157-02 Procedures for imposition, calculation, credits, and collection of development fees; ~~exemptions~~  
waivers

SECTION 2: That the Yuma City Code, Title 15, Chapter 157, Section 01 (B) is amended to delete the following crossed-out text and add the following underlined text:

**CREDIT.** A ~~waiver~~ reduction of certain required development fees in exchange for the dedication of public facility sites and improvements included in the Infrastructure Improvements Plan, for which the development fee is assessed.

**NEW DEVELOPMENT.** The subdivision of land; the construction, reconstruction, change of use, conversion, structural alteration, relocation or enlargement of any structure that adds or increases the number of service units; or any use or extension of the use of land that increases the number of service units.

SECTION 3: That the Yuma City Code, Title 15, Chapter 157, Section 01 (B) is amended to add the following underlined text inserted alphabetically in the definitions section:

**EXEMPT DEVELOPMENT.** The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure that does not add or increase the number of service units.

**WAIVER.** A partial or full reduction of development fees that meets specific criteria for the application, has been approved by City Council and an alternative funding source other than development fees has been provided.

SECTION 4: That the Yuma City Code, Title 15, Chapter 157, Section 01 (D)(4) is amended to delete the following crossed-out text and add the following underlined text:

(a) Previously-issued construction permits and previously paid development fees. No development fee is to be imposed on new development for which a construction permit was issued prior to the original effective date of this chapter or for which development fees were paid pursuant to a prior construction permit after the original effective date.

(b) Exempt Development.

1. No net increase in dwelling units. No development fee is imposed on any new residential development that does not result in the creation of a new dwelling unit, unless said new development increases the demand for public facilities for which development fees are being imposed.

2. ~~(e)~~ No net increase in non-residential square footage. No development fee is imposed on non-residential new development that does not result in the creation of new square footage, unless said new development increases the demand for public facilities for which development fees are being imposed.

3. ~~(d)~~ Other uses. No development fee is imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a construction permit is required, which does not result in an increase in the demand for public facilities.

(c) ~~(e)~~ Development agreements. No development fee, for a particular public facility category, is imposed on development projects that are the subject of an existing development agreement, executed pursuant to A.R.S. § 9-500.05, containing provisions in conflict with this chapter, but only to the extent of the conflict or inconsistency.

(d) ~~(f)~~ Development by school districts or charter schools. Pursuant to A.R.S. § 9-500.18, no development fee, other than a transportation development fee, is collected from a State of Arizona school district or a charter school; provided, however, that the City may seek to negotiate the construction of public facilities or the provision of services, or to negotiate the payment of development fees, pursuant to a development agreement or intergovernmental agreement with such entities.

SECTION 5: That the Yuma City Code, Title 15, Chapter 157, Section 02 is amended to delete the following crossed-out text and add the following underlined text:

**§ 157-02 Procedures for Imposition, Calculation, Credits, and Collection of Development Fees; Exemptions Waivers.**

SECTION 6: That the Yuma City Code, Title 15, Chapter 157, Section 02 (E) is amended to delete the following crossed-out text and add the following underlined text:

(E) ~~Exemptions Waivers~~.

(1) *Generally*. An applicant proposing a development for which development fees are due may be eligible for a partial or full exemption waiver from the requirements of this chapter, only as specifically provided for in this section.

(2) *Application for exemption waiver*. Applications for exemption waiver shall be filed with the Coordinator on forms provided by the City for such purpose.

(3) *Eligibility for exemption waiver*. Partial or full exemption waiver from the payment of development fees as required by this chapter may be made only for the following types of uses:

(a) *Affordable housing*. Defined as projects that meet United States Department of Housing and Urban Development housing affordability guidelines for low and moderate income households.

(b) *Redevelopment and infill*. Defined as projects that meet redevelopment efforts to combat blight and unsafe conditions and are located within City Council adopted redevelopment plans, in accordance with A.R.S. §§ 36-1471 through 36-1491 or projects that meet infill efforts to encourage development in older, historic and established areas of the City and are located within the Infill Overlay District.

(4) *Review of an application for exemption waiver*. Upon receipt of a complete application for exemption waiver, the Coordinator shall review the proposed new development and shall make a recommendation to the City Council as to whether the new development qualifies for an exemption a waiver pursuant only to the provisions in subsection (3) above. Based on the recommendation of the Coordinator and the criteria set forth in subsection (3), the City Council shall either grant, grant with conditions, or deny a proposed exemption waiver request.

(5) *Notification to appropriate departments and Infrastructure Improvements Advisory Committee*. If the City Council determines that the proposed development qualifies for an exemption a waiver, the Coordinator shall notify the Finance Director that the exemption waiver has been approved and that a funding source other than development fees shall be used to fund public facilities in accordance with the Infrastructure Improvements Plan. Within 30 days of the exemption waiver approval, the Coordinator shall provide notice to the Infrastructure Improvements Advisory Committee established pursuant to § 157-05(B).

(6) *Effect of grant of exemption waiver*. If the City Council grants an exemption a waiver of development fees otherwise due, the Finance Director shall transmit funds equal in amount to those exempted waived, from a source other than development fees, into the appropriate development fee account within one year of the grant of the exemption waiver. The City shall not increase the amount of development fees payable under this chapter to replace any revenue lost on account of the exemptions waivers granted.

SECTION 7: It shall be unlawful for any person, firm or corporation to violate, or cause the violation of, any provision of this Ordinance. Any person, firm or corporation violating any provisions in this Ordinance shall be guilty of a class 1 misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000 or by imprisonment for not more than ten days or both fine and imprisonment.

Each separate day or part thereof during which any violation of said Ordinance occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

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Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

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Richard W. Files  
City Attorney