ORDINANCE NO. 14-19 (7-15-14)

ORDINANCE ADOPTING A SEWER IMPACT FEE FACILITIES PLAN, SEWER COLLECTION FACILITIES IMPACT FEE ANALYSIS, SEWER COLLECTION FACILITIES SERVICE AREAS AND A SEWER COLLECTION FACILITIES IMPACT FEES ENACTMENT IN THE CITY OF SARATOGA SPRINGS; PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES; PROVIDING FOR APPEAL, MEDIATION, ARBITRATION, ACCOUNTING, AND SEVERABILITY OF THE SAME; AND OTHER RELATED MATTERS

WHEREAS, on February 15, 2011 the City mailed notice to affected entities and to the development community of its intent to update its Capital Facilities Plan for Sewer Collection facilities and to amend its Sewer Collection facilities impact fees

WHERAS, on August 1, 2011 the City properly noticed its intent to update its Capital Facilities Plan and to create an Impact Fee Facilities Plans for Sewer Collection facilities and to amend its sewer impact fees;

WHEREAS, on July 28, 2011 Saratoga Springs, Utah mailed the same notice to all affected entities;

WHEREAS, the City properly noticed a January 2012 kickoff meeting to begin the process to analyze sewer collection facilities impact fees as well as other impact fee qualified facilities;

WHEREAS, the City mailed individual notice of the kickoff meeting to 36 state and local governments, private development entities and private home owners' associations;

WHEREAS, in addition to City Consultants, City Officials and representatives of other Government entities, two private citizens attended the kickoff meeting;

WHEREAS, on February 8, 2012 City staff met with interested members of the development community to address growth assumptions that would form the foundation for all advertised Impact Fee Facilities Plans and Analysis;

WHEREAS, on April 3, 2012, City staff convened a follow up meeting with the development community to address proposed growth assumptions;

WHEREAS, on June 4, 2013 the City properly noticed a public meeting to discuss the current and proposed levels of service for Sewer Collection facilities, the extent of excess sewer facilities capacity to serve new growth and the capital facilities that would be required to serve new growth in the impact fee expenditure period;

WHEREAS, on June 11, 2013, the City of Saratoga Springs, Utah held a public meeting to discuss the current and proposed levels of service for Sewer collection facilities, the extent of

excess sewer collection facilities capacity to serve new growth and the capital facilities that would be required to serve new growth in the impact fee expenditure period;

WHEREAS, on June 12, 2013, the City emailed copies of a DRAFT Sewer Collection Impact Fee Facilities Plan and Analysis to affected entities and to the development community representatives and posted the same to the Public Notice Website;

WHEREAS, on July 11, 2013 the City properly noticed its intention to prepare a Sewer collection impact fee facilities plan;

WHEREAS, on August 7, 2013 the City properly noticed its intention to prepare a Sewer collection facilities impact fee analysis;

WHEREAS, on July 3, 2014 the City properly posted a copy of the executive summary of and the certified Sewer Collection Impact Fee Facilities Plan and Analysis;

WHEREAS, on July 3, 2014, the City properly noticed its intent to adopt the certified Sewer Collection Impact Fee Facilities Plan and Analysis as well as its intent to hold a public hearing and possibly adopt this Ordinance;

WHEREAS, Saratoga Springs is a fourth class city of the State of Utah, authorized and organized under the provisions of Utah law and is authorized pursuant to the Impact Fee Act, Utah Code § 11-36a-101 *et seq.* to adopt Sewer Collection facilities impact fees; and

WHEREAS, the City has caused a Sewer Collection Impact Fee Facilities Plan and Impact Fee Analysis to be prepared by Bowen Collins to assess the level of Sewer Collection facility service that is currently provided to existing residents, the excess capacity in the existing Sewer Collection facilities infrastructure that is available to accommodate new growth without diminishing the current level of service provided to existing residents and the elements and the cost of additional Sewer Collection facilities that will be required to maintain the current level of service as projected growth occurs in the impact fee expenditure period; a copy of the Sewer Collection Impact Fee Facilities Plan prepared by Bowen Collins is attached hereto as exhibit "A"

WHEREAS, Bowen Collins certified its work as compliant with Utah Code § 11-36a-306 on May 29, 2014; and

WHEREAS, the City has caused a Sewer Collection Facilities Impact Fee Analysis to be prepared by Zions' Public Finance;

WHEREAS, Zions' Public Finance has identified a maximum Sewer Collection facilities impact fee based on the Sewer Collection Impact Fee Facilities Plan; a copy of the Sewer Collection Impact Fee Facilities Plan prepared by Zions' Public Finance dated June 19, 2014 is attached hereto as exhibit "B"; and

WHEREAS, on July 3, 2014, a full copy of the Sewer Collection Impact Fee Facilities Plan, the Sewer Collection Impact Fee Analysis, the Sewer Collection Impact Fee Enactment, along with an executive summary of the Sewer Collection Impact Fee Facilities Plan and Analysis that was prepared in a manner to be understood by a lay person, were made available to the public at the Saratoga Springs public library, posted on the City's website, and the Public Notice Website; and

WHEREAS, on July 5, 2014, the Provo Daily Herald published notice of the date, time, and place of the first public hearing to consider the Sewer Collection Facilities Impact Fee Facilities Plan, Analysis, and Enactment; and

WHEREAS, on July 15, 2014, the City Council held a public hearing regarding the proposed and certified Sewer Collection Impact Fee Facilities Plan, Sewer Collection Impact Fee Analysis, and a draft of this Sewer Collection Facilities Impact Fee Ordinance; and

WHEREAS, after careful consideration and review of the comments at the public hearing and the comments of the Participants, the Council has determined that it is in the best interest of the health, safety, and welfare of the inhabitants of Saratoga Springs to:

1. adopt the Sewer Collection Impact Fee Facilities Plan for Sewer Collection Facilities as proposed;
2. adopt the Sewer Collection Impact Fee Analysis as proposed;; and
3. enact this Ordinance to:
    a. amend its current Sewer Collection impact fees;
    b. provide for the calculation and collection of such fees;
    c. authorize a means to consider and accept an independent fee calculation for atypical development requests;
    d. provide for an appeal process consistent with the Impact Fees Act;
    e. update its accounting and reporting method;
    f. all in a manner that is consistent with the Impact Fees Act.

NOW, THEREFORE, BE IT ORDAINED by the Saratoga Springs Council as follows:

SECTION I – IMPACT FEE FACILITIES PLAN AND ANALYSIS: SEWER COLLECTION FACILITIES

The Sewer Collection Impact Fee Facilities Plan and Analysis attached hereto as Exhibits A and B is hereby adopted.

SECTION II – ENACTMENT

The following amendments to Chapter 7.05 of the City Code are hereby made:

Chapter 7.05. ~~Wastewater~~ **Sewer Collection Facilities Impact Fee.**

Sections:

7.05.01. **Definitions.**
7.05.02. **Findings and Purpose.**
7.05.03. **Establishment of** ~~North Special~~ **Sewer Collection Facilities Service Areas.**
~~**7.05.04. Renaming of South Special Service Area.**~~
7.05.~~**05**~~**04.** **Adoption and Imposition of** ~~Adjusted Wastewater~~**Sewer Collection Facilities Impact Fees.**
~~**7.05.06. Stacked Unit, Multi-Family Residential Dwellings.**~~
7.05.~~**07**~~**05.** **Use of** ~~Adjusted Wastewater~~**Sewer Collection Facilities Impact Fees.**
7.05.~~**08**~~**06.** **Adjustments.**
7.05.~~**09**~~**07.** **Accounting, Expenditure, and Refunds.**
7.05.~~**10**~~**08.** **Impact Fee Challenges and Appeals.**
7.05.~~**11**~~**09.** **Severability.**

7.05.01. Definitions.

As used in this Chapter the following terms shall have the meanings herein set out:

1. **"City"** means the City of Saratoga Springs and its incorporated boundaries.

~~1.~~2. **"Development Activity"** or **"new development"** means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for Public Facilities.

3. **"Equivalent Residential Connection" or "ERC"** means that measure of impact on public facilities equal to the impact of one typical primary residential single-family detached dwelling unit. For Sewer Collection Facilities, an ERC equals 40 water supply fixture units (WSFU).

~~2.~~4. **"Sewer Collection Facilities Impact Fees"** means the Sewer Collection Facilities Impact Fees adopted and imposed by this Chapter on Development Activity within the City.

~~3. **"North Special Service Area"** means the sewer Special Service Area formally adopted by the City Council in Ordinance 05-3 for adjusted wastewater impact fees that covers the entire City except for the portion of the City included in the previously existing sewer Special Service Area.~~

~~4.~~5. **"**~~**Public**~~ **Sewer Collection Facilities"** means the ~~following~~ capital facilities ~~that have a life expectancy of ten or more years and are owned or operated by or on behalf of the City:~~ identified in the 2014 Sewer Collection Impact Fee Facilities Plan dated May 29, 2014.

~~a. public roadways and roadway facilities including roads, bridges and traffic signals;~~
~~b. storm drainage facilities;~~
~~c. culinary water facilities;~~
~~d. secondary water facilities (water for outside use);~~
~~e. wastewater collection (but not treatment) facilities;~~
~~f. parks, recreation facilities, trails and open space; and~~
~~g. public safety facilities.~~

~~5. **"South Special Service Area"** means the sewer Special Service Area originally established by the City Council in Ordinance 00-0713-01 that covers all of the City, except for the portion of the City being included in the North Special Service Area adopted by the City Council in Ordinance 05-3, including the subdivision plats for Lake Mountain Estates and Pelican Bay.~~

6. **"Utah Impact Fees Act"** means Utah Code 11-36a.

7. **"Water Supply Fixture Unit" or "WSFU"** means the International Plumbing Code ("IPC") fixture count method developed to predict water use for various fixture types. Each fixture type is assigned a load value in water supply fixture units (WSFU).

~~7. **"Wastewater Impact Fee"** means the wastewater impact fees adopted and imposed on Development Activity within the North and South Special Service Areas pursuant to Ordinances 00-0713-01 and 05-3.~~

~~8. The definitions set out in the Impact Fee Ordinance adopted on April 13, 1999, shall apply as those terms are used in this Chapter.~~

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01)

7.05.02. Findings and Purpose.

The City Council hereby finds and determines:

1. There is a need to establish a ~~wastewater~~ sewer collection facilities impact fee for ~~the North Special Service Area and South Special Service Area in order to continue~~ four separate service areas in the City to maintain the level of service for sewer collection facilities proposed in the 2014 Sewer Collection Impact Fee Facilities Plan and Analysis.~~currently enjoyed by Saratoga Springs residents regarding the existing sewer facilities and the improvements as set out in the Analysis Supporting the Adjusted Wastewater Impact Fee.~~

~~2. Establishing the North Special Service Area and South Special Service Area and establishing wastewater impact fees for those area.~~

~~3. The analyses and studies identify the need for the wastewater impact fees for the North and South Special Service Areas and demonstrate why the impact fees for those areas are fair in light of the circumstances relating to the need for sewer facilities to serve the North and South Special Service Areas.~~

2. The 2014 Sewer Collection Facilities Impact Fee Plan and Analysis identify the:
   a. projected development activity in the City through 2020;
   b. level of service for sewer collection facilities that serve existing residents;
   c. excess sewer collection facilities capacity that is available to serve new growth in the existing infrastructure;
   d. proposed level of service for the City, which does not raise the existing level of service for current residents;
   e. additional capital facilities that are required to maintain the proposed sewer collection level of service without burdening existing residents with costs of new development activity; and the
   f. maximum fee that is legally justified by the study.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01)

7.05.03. Establishment of ~~North Special~~ Sewer Collection Facilities Service Areas.

The City Council hereby approves and establishes ~~the North Special Service Area for which the Adjusted Wastewater Impact Fee herein provided will be imposed.~~ four sewer collection facilities service areas and acknowledges a fifth area of the city with no sewer collection facilities in place and no facilities planned for construction with public funds through 2020. The ~~North Special Service Area shall include all land in the City not included in the South Special Service Area.~~sewer service areas are depicted on exhibit C.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01)

~~**7.05.04. South Special Service Area.**~~

~~The City Council hereby changes the name and designation of the Special Service Area established in Ordinance No. 00-0713-01 to the South Special Service Area in order to help distinguish that Special Service Area from the North Special Service Area being established by this Ordinance. Per Ordinance No. 00-0713-01, the South Special Service Area shall include the approved subdivision plats for Lake Mountain Estates and Pelican Bay.~~

~~(Ord. 11-9; Ord. 05-3; Ord. 00-0713-01)~~

7.05.~~05~~04. Adoption and Imposition of ~~Wastewater~~ Sewer Collection Facilities Impact Fees.

1. A Sewer Collection Impact Fee for all new development activity shall be calculated as a multiple of water supply fixture units, in each service area, with the minimum residential connection (ERC) equal to 40 water supply fixture units.

a. North Service Area-Posey sewer collection impact fee = $1020 per ERC;
b. South Service Area sewer collection impact fee = $642 per ERC;
c. Harbor Bay North Service Area sewer collection impact fee = $1987 per ERC;
d. Harbor Bay South Service Area sewer collection impact fee = $3580 per ERC

2. The sewer collection facilities impact fee for new non-residential development activity shall be calculated by dividing the number of water supply fixture units proposed by the approved building plans by 40 water supply fixture units and then by multiplying that number by the impact fee per ERC that has been imposed in the service area in which the development activity will occur:

wsfu ÷ 40 wsfu x Service Area Sewer Collection Impact Fee (per ERC)

(Ord. 14-19, Ord. 11-9; Ord. 00-0713-01)

~~1. **North Special Service Area.** The City Council hereby approves and imposes and levies on all Development Activity in the North Special Service Area the Wastewater Impact Fee in the amount of $1,200 per residential connection. In adopting the Wastewater Impact Fee for the North Special Service Area, the City Council hereby adopts the Analysis Supporting the Wastewater Impact Fee, the analysis reflected therein and the methodology used for the calculation of the Wastewater Impact Fee imposed for the North Special Service Area by this Chapter.~~

~~(Ord. 11-9; Ord. 05-3)~~

~~2. **South Special Service Area.** The City Council hereby approves and imposes and levies on all Development Activity in the Special Service Area, other than Development Activity by owners of SSD Reserved Connections, the Wastewater Impact Fee in the amount of $1,200 per residential connection. In adopting the Wastewater Impact Fee, the City Council hereby adopts the justification for the Wastewater Impact Fee, the analysis reflected therein and the methodology used for the calculation of the Adjusted Wastewater Impact Fee imposed by this Chapter.~~

~~(Ord. 11-9; Ord. 00-0713-01)~~

~~**7.05.06. Stacked Unit, Multi-Family Residential Dwellings.**~~

~~Impact fees for stacked unit, multi-family residential dwelling units shall be computed at 0.5 Equivalent Residential Units (ERUs) per individual dwelling unit in a building.~~

~~(Ord. 11-9; Ord. 10-3)~~

7.05.~~07~~05. Use of ~~Wastewater~~ Sewer Collection Facilities Impact Fees.

The ~~Wastewater~~ Sewer Collection Facilities Impact Fees collected by the City ~~in the North and South Special Service Areas~~ shall be used as provided in ~~the Analyses and Studies Supporting~~

~~the Wastewater Impact Fee and as provided in the City's Impact Fee Chapter.~~2014 Sewer Collection Impact Fee facilities Plan and Analysis.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01)

7.05.~~08~~06. Adjustments.

1. At the time an impact fee is charged, ~~The~~the City ~~may~~ shall adjust the calculation of all, or any component, of the Sewer Collection Facilities impact fees imposed by this Chapter as necessary in order to:

   a. respond to unusual circumstances in specific cases;

   b. ensure that the impact fees are imposed fairly; and

   c. adjust the amount of the Impact Fees to be imposed on a particular development based upon studies and data submitted by the developer that are approved by the City Council.~~; and~~

2. At the time an impact fee is charged, ~~allow credits as approved by the~~~~The~~the City Council ~~for~~ shall allow credit against, or proportionate reimbursement from, impact fees for the:
   a. dedication of land for~~, improvements to,~~ a System Improvement; and
   b. full or partial construction of:
      i. ~~Public Facilities providing services to the City at large, provided such facilities are~~ System Improvements identified in the ~~Capital~~ Sewer Collection Impact Fee Facilities Plan; or ~~Facilities Plan and are required by the City as a condition of approving the development or Development Activity.~~
      ~~i.~~ii. publicly accepted and dedicated capital improvement that will offset the need for a System Improvement.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01; Ord. 99-0413-1)

7.05.~~09~~07. Accounting, Expenditure, and Refunds.

The City shall account for, expend and refund ~~Wastewater~~ Sewer Collection Impact Fees in accordance with this Chapter and the Utah Impact Fees Act.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01; Ord. 99-0413-1)

7.05.~~10~~08. Impact Fee Challenges and Appeals.

~~Any person or entity residing in or owning property within a service area and any organization, association, or corporation representing the interests of persons or entities owning property within a service area, may file a declaratory judgment action~~

~~challenging the validity of the Impact Fees after filing an appeal with the City Council as provided in Subsection (4) of this Section.~~

1. Any person or entity required to pay an Impact Fee who believes the fee does not meet the requirements of ~~law~~ the Impact Fees Act or this Chapter may file a written request for information with the City.

2. ~~Within two weeks of the receipt of the request for information, the~~The City shall provide the person ~~or entity~~ with a copy of the ~~written analysis required by the Utah~~Sewer Collection Impact Fee ~~Act~~ Facilities Plan, the specific calculation staff used to calculate the Sewer Collection Impact Fee for the person, if applicable, and ~~with~~ any other relevant information relating to the Impact Fees. The City may charge for all copies provided for in response to such a request in an amount set out in the City's Consolidated Fee Schedule.

3. At any time prior to thirty days after paying an Impact Fee, the person required to pay an Impact Fee and wishes to challenge the fee may request a third party advisory opinion in accordance with UCA §13-43-205

4. Within thirty days after paying an Impact Fee, any person ~~or entity~~ who has paid the fee and wishes to challenge the fee shall file:

   a. a written appeal with the City Hearing Examiner;~~Council by delivering a copy of such appeal with the City Manager setting forth in detail all grounds for the appeal and all facts relied upon by the appealing party with respect to the fee being appealed.~~
   b. A request for arbitration;
   ~~a.~~c. an action in district court.

5. The written appeal shall be delivered to the City manager and shall set forth in detail all grounds for the appeal and all facts relied upon by the appealing party with respect to tehe fee being appealed.
   ~~b.~~a. Upon receipt of an appeal, the City ~~Council~~ Hearing Examiner shall ~~thereafter~~ schedule a ~~public~~ hearing ~~on the appeal at which time~~and shall consider all ~~interested persons will be given an opportunity to be heard.~~evidence presented by the appellant, as well as all evidence presented by staff. The City ~~Council~~ Hearing Examiner shall schedule the appeal hearing and thereafter render its written findings of fact, conclusions of law, and decision ~~on the appeal~~ no later than thirty days after the challenge to the impact fee is filed.
   ~~c. Any person or entity who has failed to comply with the administrative appeal remedies established by this Section may not file or join an action challenging the validity of any Impact Fee.~~
   ~~d.~~b. Within ninety days of a decision upholding an Impact Fee by the City ~~Council~~ Hearing Examiner or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier, ~~any party~~the person who filed to the appeal ~~who is adversely affected by the City Council's decision~~ may petition the Fourth Judicial District Court for Utah County for review of the Hearing Examiner's

decision. In the event of a petition to the Fourth Judicial District Court, the City shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

i. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this Subsection.

ii. If there is an adequate record, the:

A. ~~the~~ court's review is limited to the record provided by the City; and

B. ~~the~~ court may not accept or consider any evidence outside the City's record unless that evidence was offered to the City ~~Council~~ Hearing Examiner and the court determines that it was improperly excluded by the City ~~Council~~Hearing Examiner.

iii. If there is an inadequate record, the court may call witnesses and take evidence.

iv. The court shall affirm the decision of the City Council if the decision is supported by substantial evidence ~~in the record~~.

~~v. The judge may award reasonable attorneys' fees and costs to the prevailing party in any action brought under this Section.~~

6. If the request is for arbitration, both the City and the person requesting arbitration shall comply with UCA § 11.36a.705.

7. Within thirty days after paying an Impact Fee, the state, a school district or a charter school may alternatively submit a written request for mediation to the City Manager.

a. Both the City and the specified public agency shall comply with UCA §11-36a-704.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01; Ord. 99-0413-1)

7.05.~~11~~09. Severability.

If any section, subsection, sentence, clause, or portion of this Chapter is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby and shall remain in effect and be enforced to the extent permitted by law.

(Ord. 14-19; Ord. 11-9; Ord. 05-3; Ord. 00-0713-01)

SECTION III – AMENDMENT OF CONFLICTING ORDINANCES

If any ordinance, resolution, policy or map of the City heretofore adopted is inconsistent herewith it is hereby amended to comply with the provisions hereof. If it cannot be amended to comply with the provisions hereof, the inconsistent provision is hereby repealed.

SECTION IV – EFFECTIVE DATE

This ordinance shall take effect upon publication and 90 days after its passage by a majority vote of the Saratoga Springs City Council.

SECTION V – SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION VI – PUBLIC NOTICE

The Saratoga Springs City Recorder is hereby ordered, in accordance with the requirements of Utah Code §§ 10-3-710—711, to:

a. deposit a copy of this ordinance in the office of the City Recorder; and
b. publish a short summary of this ordinance for at least one publication in a newspaper of general circulation in the City.

ADOPTED AND PASSED by the City Council of the City of Saratoga Springs, Utah, this 15 day of July, 2014.

Signed: _____
Jim Miller, Mayor

Attest: _____
Lori Yates, City Recorder

7-15-14
Date

VOTE

Shellie Baertsch	Aye
Rebecca Call	Aye
Michael McOmber	Aye
Bud Poduska	Aye
Stephen Willden	Aye

City of SARATOGA SPRINGS
CORPORATE SEAL
STATE OF UTAH