

ORDINANCE 15-25

ADOPTING THE STORM DRAIN CAPITAL FACILITIES PLAN, STORM DRAIN IMPACT FEE FACILITIES PLAN, STORM DRAIN FACILITIES IMPACT FEE ANALYSIS, AND STORM DRAIN FACILITIES IMPACT FEE INCLUDING SERVICE AREAS, TIME AND METHOD OF CALCULATION, COLLECTION, ADJUSTMENTS, ACCOUNTING, EXPENDITURE, REFUNDS, CHALLENGES AND APPEALS, 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 Storm Drain System facilities and to amend its Storm Drainage impact fees;

WHEREAS, on August 1, 2011 the City properly noticed its intent to update its Capital Facilities Plan and to create an Impact Fee Facilities Plan for Storm Drain facilities and to amend its Storm Drain 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 Storm Drain 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, City Consultants, City Officials, representatives of other Government entities, and 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 Analyses;

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

WHEREAS, on January 14, 2015 the City posted a draft Storm Drain Capital Facilities Plan and Impact Fee Facilities Plan on its website and received input from the development community based on the draft plan;

WHEREAS, Bowen & Collins has assessed the level of Storm Drain facility service that is currently provided to existing residents, the excess capacity in the existing Storm Drain 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 Storm Drain 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 Storm Drain 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 in May 2015; and

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

WHEREAS, Zions' Public Finance has identified a maximum Storm Drain facilities impact fee based on the Storm Drain Impact Fee Facilities Plan; a copy of the Storm Drain Impact Fee Facilities Analysis prepared by Zions' Public Finance dated August 2015 is attached hereto as Exhibit "B";

WHEREAS, on June 11, 2015, the City noticed a meeting to invite further public input on the plan on July 9, 2015;

WHEREAS, City staff met with interested parties at the July 9, 2015 meeting and received positive input from them;

WHEREAS, on August 6, 2015 the City posted a copy of the executive summary of the Storm Drain Facilities Impact Fee and a copy of a draft Storm Drain Facilities Impact Fee Ordinance;

WHEREAS, on July 31, 2015, the City properly noticed its intent to adopt the certified Storm Drain 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 Storm Drain facilities impact fees; and

WHEREAS, on August 6, 2015, a full copy of the Storm Drain Impact Fee Facilities Plan, the Storm Drain Impact Fee Analysis, this Storm Drain Impact Fee Enactment or Ordinance, along with an executive summary of the Storm Drain Impact Fee Facilities Plan and Analysis that was prepared in a manner to be understood by a lay person, and a draft of this ordinance 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 31, 2015, the Provo Daily Herald published notice of the date, time, and place of the first public hearing to consider the Storm Drain Facilities Impact Fee Facilities Plan, Analysis, and Enactment; and

WHEREAS, on August 18, 2015, the City Council held a public hearing regarding the proposed and certified Storm Drain Impact Fee Facilities Plan, Storm Drain Impact Fee Analysis, and a draft of this Storm Drain 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 2015 Storm Drain Capital Facilities Plan as proposed;
2. adopt the 2015 Storm Drain Impact Fee Facilities Plan for Storm Drain Facilities as proposed;
3. adopt the 2015 Storm Drain Impact Fee Analysis as proposed; and
4. in a manner that is consistent with the Impact Fees Act, enact this Ordinance to:
 - a. amend its current Storm Drain 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; and
 - e. update its accounting and reporting method.

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

SECTION I STORM DRAIN IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS: STORM DRAIN FACILITIES

The Storm Drain Impact Fee Facilities Plan and Storm Drain Impact Fee Analysis attached hereto as Exhibits A and B are hereby adopted and incorporated herein. The Storm Drain Capital Facilities Plan attached as Exhibit C is also hereby adopted and incorporated herein.

SECTION II ENACTMENT

The following amendments to Chapter 7.04 of the City Code are hereby made effective 90 days from the date of this enactment:

7.04 Storm Drainage Impact Fee Sections:

- 7.04.01. Definitions.
- 7.04.02. Findings and Purpose.
- 7.04.03. Adoption of Capital Facilities Plan.
- 7.04.04. Adoption and Imposition of Impact Fees.
- 7.04.05. Service Area Established.
- 7.04.06. Time of Collection.
- 7.04.07. Use of Impact Fees.
- 7.04.08. Adjustments.
- 7.04.09. Accounting, Expenditure, and Refunds.
- 7.04.10. Impact Fee Challenges and Appeals.
- 7.04.11. Severability

7.04.01. 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.
- 2 “Development Activity” or “new development” means any subdivision of land, or any construction or expansion of a building, structure, or surface use of land that creates additional demand and need for Storm Drain Facilities on any land for which a storm drain impact fee has not been paid.
- 3 “Gross Lot Acreage” means the sum of the area of a subdivided lot plus its proportionate share of area within the subdivision that is not within a subdivided lot:

$$\text{GLA} = \text{lot area} + (\text{common* area}/\# \text{ subdivision lots})$$

- 4 “Storm Drain Impact Fees” means the Impact Fees adopted and imposed by this Chapter on Development Activity within the City and as allowed by Utah Code Chapter 11-36a.
- 5 “Storm Drain Facilities” means the capital facilities identified in the 2015 Storm Drain Impact Fee Facilities Plan dated May 2015:
- 6 “Utah Impact Fees Act” means Utah Code Chapter 11-36a.

7.04.02. Findings and Purpose.

The City Council hereby finds and determines:

1. There is a need to update the City’s storm drain facilities impact fee to meet the requirements of the Utah Impact Fees Act and to maintain the level of service for

storm water drainage proposed in the Storm Drain Impact Fee Facilities Plan dated May 2015 and the Storm Drain Impact Fee Analysis dated August 2015.

2. The 2015 Storm Drain Impact Fee Facilities Plan and the 2015 Storm Drain Impact Fee Analysis identify the:
 - a. projected development activity in the City through 2025,
 - b. level of service for storm drain facilities that the City currently provides to existing residents;
 - c. excess storm drain facilities capacity that is available to serve new growth in the existing infrastructure;
 - d. proposed level of service for the City, which is identical to the existing level of service for current residents;
 - e. additional capital facilities that are required to maintain the level of service without burdening existing residents with costs of new development activity; and the
 - f. maximum fee justified by the study.

7.04.03. Adoption of Storm Drain Impact Fee Facilities Plan and Storm Drain Impact Fee Analysis.

The City Council hereby approves and adopts the 2015 Storm Drain Impact Fee Facilities Plan and the 2015 Storm Drain Impact Fee Analysis reflected therein and the methodology used for calculation of the Impact Fees imposed by this Chapter for the Public Facilities covered by this Chapter.

7.04.04. Adoption and Imposition of Storm Drain Impact Fee.

The City Council hereby approves and imposes and levies on all Development Activity the Impact Fee for storm drain system facilities in the amount of \$1,649 per acre.

7.04.05. Service Area Established.

There is a single, citywide service area for storm drain facilities.

7.04.06. Time of Collection.

1. For all new subdivision development applications filed on or after November 18, 2015 the Storm Drain Facilities Impact Fees imposed by this Chapter shall be paid prior to plat recordation, at a rate of \$1,649 per subdivided acre.

Example:

The Storm drain Facilities Impact Fee for the subdivision of 22.43 acres is calculated as follows:

$$\$1649/\text{acre} \times 22.43 \text{ acres} = \$36,987.07$$

2. For development activity on undeveloped land for which a storm drain facilities impact fee was not charged as a condition of subdivision development, the Storm Drain Facilities Impact Fees imposed by this Chapter is due prior to the issuance of a building permit, at a rate of \$1,649 per Gross Lot Acreage.

Example:

The Storm Drain Facilities Impact Fee for the development of quarter acre lot in a vested 60-lot subdivision within a plat with 5.2 acres of land that is outside of the individually platted lots is calculated as follows:

$$\begin{aligned} \text{GLA} &= 0.25 \text{ acres.} + (5.2 \text{ sq. ft.} \div 60 \text{ lots}) = 0.3367 \text{ acres} \\ 0.3367 \text{ acres} \times \$1,649/\text{acre} &= \$555.16 \end{aligned}$$

3. For new development activity on land for which a Storm Drain Facilities Impact Fee has been paid, the storm drain facilities impact fee is zero.

4. For a plat amendment or boundary adjustment that does not increase the area of a subdivision the storm drain facilities impact is zero.

7.04.07. Use of Impact Fees.

Storm Drain Facilities Impact Fees collected by the City shall be used solely to:

- 1 pay for the Storm Drain Facilities provided for in the 2015 Storm Drain Impact Fee Facilities Plan;
- 2 reimburse the City for a existing storm drain facilities with excess capacity for growth identified in the 2015 Storm Drain Impact Fee Facilities Plan; and
- 3 reimburse developers who construct or dedicate facilities identified in the 2015 Storm Drain Impact Fee Facilities Plan in lieu of city construction of the same facilities.

7.04.08. Adjustments.

The City may adjust the Storm Drain Impact Fees imposed by this Chapter as necessary in order to:

1. respond to unusual circumstances in specific cases;
2. ensure that the Storm Drain Facilities Impact Fees are imposed fairly;
3. adjust the amount of the Storm Drain Facilities 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
4. allow credits, as approved by the City Council, for dedication of land an for improvements to, or construction of, Storm Drain Facilities identified in the 2015

Storm Drain Facilities Impact Fee Facilities Plan that the City has required as a condition of approving the Development Activity.

7.04.09. Accounting, Expenditure, and Refunds.

The City shall account for, expend, and refund Storm Drain Impact Fees collected pursuant to this Chapter in accordance with the Utah Impact Fees Act.

7.04.10. Challenges and Appeals.

1. 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 Storm Drain Facilities Impact Fees after filing an appeal with the City Council as provided in Subsection (4) of this Section.
2. Any person or entity required to pay a Storm Drain Facilities Impact Fee who believes the fee does not meet the requirements of law may file a written request for information with the City.
3. Within two weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Utah Impact Fee Act 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
4. Within thirty days after paying a Storm Drain Facilities Impact Fee, any person or entity who has paid the fee and wishes to challenge the fee shall: file a written appeal with the City 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.
 - a. Upon receipt of an appeal, the City Council shall thereafter schedule a hearing on the appeal at which time all interested persons will be given an opportunity to be heard. The City Council shall schedule the appeal hearing and thereafter render its decision on the appeal no later than thirty days after the challenge to the impact fee is filed.
 - b. 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 the Storm Drain Facilities Impact Fee imposed.
 - c. Within ninety days of a decision upholding an Impact Fee by the City Council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier, any party 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 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 a record:
 - 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 and the court determines that it was improperly excluded by the City Council.
- 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 court may award reasonable attorneys' fees and costs to the prevailing party in any action brought under this Section.

7.04.11. Severability.

If any section, subsection, sentence, clause, or portion of this Chapter is for any reason, held 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.

SECTION III – AMENDMENT OF CONFLICTING ORDINANCES

If any ordinances, resolutions, policies, or zoning maps of the City of Saratoga Springs heretofore adopted are inconsistent herewith they are hereby amended to comply with the provisions hereof. If they cannot be amended to comply with the provisions hereof, they are hereby repealed.

SECTION IV – EFFECTIVE DATE

This ordinance shall take effect upon its passage by a majority vote of the Saratoga Springs City Council and following notice and publication as required by the Utah Code.

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.

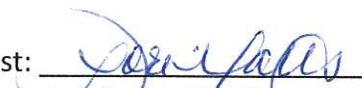
SECTION VI – PUBLIC NOTICE

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

- a. deposit a copy of this ordinance in the office of the City Recorder; and
- b. publish notice as follows:
 - i. publish a short summary of this ordinance for at least one publication in a newspaper of general circulation in the City; or
 - ii. post a complete copy of this ordinance in three public places within the City.

ADOPTED AND PASSED by the City Council of the City of Saratoga Springs, Utah, this 18 day of August, 2015.

Signed: 
Jim Miller, Mayor

Attest: 
Lori Yates, City Recorder



August 18, 2015
Date

VOTE

Shellie Baertsch

Rebecca Call

Michael McOmber

Stephen Wilden

Bud Poduska

Aye
Aye
Aye
Aye
Aye