

CITY OF SALIDA, COLORADO
ORDINANCE NO. 03
(Series of 2025)

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO, ACTING AS THE GOVERNING BODY OF THE WATER AND WASTEWATER ENTERPRISE OF THE CITY OF SALIDA, LIFTING THE TEMPORARY MORATORIUM IMPOSED BY ORDINANCE 2023-09 ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR CONNECTION TO THE WASTEWATER SYSTEM FOR THOSE PROPERTIES BENEFITING FROM THE PONCHA INTERCEPTOR AND AFFECTED BY ITS CAPACITY LIMITATIONS, AND DECLARING AN EMERGENCY

WHEREAS, the City of Salida, Colorado (“City” or “Salida”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City by and through its City Council (“Council”), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

WHEREAS, pursuant to such authority, the City has previously adopted certain regulations within Chapter 13 of the Salida Municipal Code (“Code”) concerning municipal utilities; and

WHEREAS, pursuant to Chapter 13, Article 1, the Water and Wastewater Enterprise of the City of Salida (“Enterprise”) was established, which is authorized to implement provisions of Chapter 13 of the Code and perform all other functions and duties as authorized by law, and which Enterprise is wholly owned by the City and operates in accordance with all applicable laws; and

WHEREAS, pursuant to Code section 13-1-30, the City Council serves as the governing board and body of the Water and Wastewater Enterprise; and

WHEREAS, since 2017, growth and development within the Town of Poncha Springs (“Town” or “Poncha Springs”) alerted the City to the need for specific planning as it related to the Poncha Springs Service Area; and

WHEREAS, for the last seven plus years, the City notified – and then warned - Poncha Springs of the City’s concerns regarding pipeline capacity due to rapid growth approved by the Town; and

WHEREAS, in 2018, these capacity concerns prompted City staff to work with Providence Infrastructure Consultants related to the Poncha Interceptor (“Interceptor”), located along US-50 near Poncha Springs Lane within the Town of Poncha Springs and terminating along US-50 near 14th Street in the City of Salida; and

WHEREAS, the engineering report created by Providence Infrastructure Consultants,

entitled “Poncha Interceptor Flow Analysis Technical Memorandum,” established that the existing Interceptor was approaching capacity and was anticipated to reach critical flow, and that the expected development and current rate of growth within the Poncha Springs Service Area necessitated the need to upsize the sanitary sewer infrastructure in the short term and before the specific threshold of units were developed; and

WHEREAS, due to these imminent capacity concerns at the Interceptor, City of Salida Public Works Director David Lady submitted agency review comment letters to the Poncha Springs Town Board for 2 land use public hearings involving significant residential development, namely the Tailwinds II Subdivision Phase 1 application from developer Tailwind Group, LLC in April 2022 and the Poncha Meadows Filing No. 2 Subdivision application from Full Matters, LLC in June 2022, stating that sewer line extension agreements prior to the issuance of sewer taps would be contingent upon either: (1) re-negotiated Intergovernmental Agreements (IGAs); or (2) the developers providing off-site improvements to address the noted sewer capacity and Interceptor limitations; and

WHEREAS, despite the foregoing, neither the Town nor the 2 developers chose to move forward with either option, and instead jointly filed a lawsuit against the City; and

WHEREAS, because of the infrastructure limitations at the Interceptor, the Enterprise lacked the capacity to serve additional development projects benefitting from the Interceptor until receiving a commitment that the necessary capital improvements would be financed and funded to provide the ability to serve such new building construction projects; and

WHEREAS, on June 6, 2023 through Ordinance 2023-09, the City and Enterprise acted within its legal the authority to enact moratoria in order to preserve the status quo, protect public health and safety, by imposing a moratorium on the acceptance, processing and approval of applications for connection to the wastewater system for properties in the Poncha Springs Service Area benefiting from the Interceptor and affected by its capacity limitations which had not been approved for connection by the Salida City Council through executed sewer line extension or connection agreements; and

WHEREAS, due to the settlement of the Lawsuit brought by the Town of Poncha Springs, Tailwind Group, LLC and Full Matters, LLC, and the approval of the First Amendment to Intergovernmental Agreement for Transfer of Sewer System between the City of Salida and Town of Poncha Springs, which clarify, outline and memorialize the responsibilities of all parties regarding the funding and financing of the necessary sewer infrastructure, the City and Enterprise is now able to responsibly lift the moratorium imposed by Ordinance 2023-09; and

WHEREAS, the Council also finds and determines that this Ordinance is necessary to the immediate preservation of the public health, safety and welfare and the financial well-being of the City and Enterprise and those whose utilities and infrastructure the City and Enterprise services, and that this ordinance should therefore become effective upon adoption, as authorized by C.R.S. § 31-16-105.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO, ACTING AS THE GOVERNING BODY OF THE

WATER AND WASTEWATER ENTERPRISE OF THE CITY OF SALIDA as follows:

Section 1. The City Council incorporates the foregoing recitals as conclusions, facts, determinations and findings by the City Council.

Section 2. Lifting of Moratorium. Effective immediately, upon the date of this Ordinance, the moratorium imposed by Ordinance 2023-09, on the acceptance, processing, and approval of applications for connection to the wastewater system for those properties in or around the Poncha Springs Service Area benefiting from the necessary Interceptor capital improvements and affected by its capacity limitations, is hereby lifted. Ordinance 2023-09 is hereby repealed and is no longer in effect.

Section 3. Effective Date. This Ordinance shall become effective on February 4, 2025. The moratorium imposed by Ordinance 2023-09 shall immediately be lifted as of February 4, 2025, the effective date of this Ordinance.

Section 4. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 5. Emergency declaration. Pursuant to C.R.S. § 31-16-105, the City Council hereby finds, determines and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of the public health, safety and welfare and the financial well-being of the City and the Enterprise and those whose utilities and infrastructure the City and Enterprise services, and therefore, this ordinance must be passed as an emergency ordinance.

INTRODUCED, READ AND PASSED, ADOPTED AND ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Salida by the City Council this 4th day of February, 2025.

CITY OF SALIDA

By: _____
Mayor Dan Shore

ATTEST: (SEAL)

By: _____
City Clerk Kristi Jefferson