

## **ORDINANCE 01-01-2021**

### **AN ORDINANCE ADOPTING THE CITY DRINKING WATER MASTER PLAN AND CAPITAL FACILITY PLAN; ADOPTING THE CITY DRINKING WATER IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS; ADOPTING DRINKING WATER IMPACT FEES; ADOPTING CERTAIN POLICIES RELATED TO IMPACT FEES; AND ESTABLISHING A SERVICE AREA FOR PURPOSES OF IMPACT FEES**

**WHEREAS**, Santaquin City (the “City”) is a political subdivision of the State of Utah, authorized and organized under applicable provisions of Utah law; and

**WHEREAS**, the City has legal authority, pursuant to Title 11, Chapter 36a of the Utah Code Annotated, as amended (“*Impact Fees Act*” or “*Act*”), to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new development activity; and

**WHEREAS**, the City has previously enacted and imposed impact fees for public facilities, as defined in Utah Law, Title 11, Chapter 36a, Section 102, and as more particularly set forth in the Santaquin City Fee Schedule; and

**WHEREAS**, the City desires to amend its previously adopted Drinking Water Impact Fees in accordance with applicable provisions of the Impact Fees Act in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner as more particularly provided herein; and

**WHEREAS**, the City properly noticed its intent to amend the Drinking Water Master Plan, Impact Fees Facilities Plan and Impact Fee Analysis as required by law and the City has, through its consultants, completed the Drinking Water Master Plan, Impact Fee Facilities Plan and Impact Fee Analysis in accordance with applicable provisions of the Impact Fees Act, which Drinking Water Master Plan, Impact Fee Facilities Plan and Impact Fee Analysis are more particularly described and adopted herein; and

**WHEREAS**, the City has provided the required notice and held a public hearing before the City Council regarding the proposed Drinking Water Master Plan, Impact Fee Facilities Plan, Impact Fee Analysis and Impact Fees in accordance with applicable provisions of the Impact Fees Act; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SANTAQUIN CITY, STATE OF UTAH, AS FOLLOWS:**

#### **SECTION I. PURPOSE**

This Drinking Water Master Plan (attached hereto as **Exhibit A**) and Impact Fees Ordinance establishes the City’s Drinking Water Master Plan and establishes Impact Fees policies and procedures and is promulgated pursuant to Title 11, Chapter 36a, Part 4, Enactment of Impact Fees, and other requirements of the Impact Fees Act. This Ordinance adopts the Drinking Water Master Plan and Impact Fees for related facilities within the City Service Area as defined herein, provides a schedule of Drinking Water

Impact Fees for development activity, and sets forth direction for challenging, modifying and appealing Drinking Water Impact Fees. This Ordinance does not replace, supersede, or modify any ordinance regarding impact fees unrelated to Drinking Water facilities and improvements. This Ordinance may be referred to and cited as the “Drinking Water Master Plan and Impact Fees Ordinance.”

## **SECTION II. STATUTORY AUTHORITY AND RESTRICTIONS**

1. *Impact Fees Act Authority.* The City is authorized to impose impact fees subject to and in accordance with applicable provisions of the Impact Fees Act. Impact fees may only be established for public facilities as defined in Section 11-36a-102 that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision. Public facilities for which impact fees may be imposed includes Drinking Water facilities.
2. *Impact Fees Act Restrictions.* Pursuant to Section 11-36a-202 of the Impact Fees Act, the City may not impose an impact fee to: (1) cure deficiencies in public facilities serving existing development; (2) raise the established level of service of a public facility serving existing development; (3) recoup more than the local political subdivision's costs actually incurred for excess capacity in an existing system improvement; or (4) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement.

## **SECTION III. SERVICE AREA**

The Impact Fees Act requires the City to establish one or more service areas within which the City will calculate and impose a particular impact fee. The service area within which the proposed Drinking Water Impact Fees will be imposed is described in Santaquin City Code (S.C.C.) § 9.08.040.

## **SECTION IV. IMPACT FEE FACILITIES PLAN (IFFP)**

1. *Impact Fee Facilities Plan Required.* Pursuant to Section 11-36a-301 of the Impact Fees Act, before imposing or amending an impact fee, the City is required to prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity. The impact fee facilities plan shall identify the demands placed upon existing public facilities by new development activity and the proposed means by which the City will meet those demands.
2. *Drinking Water Impact Fee Facilities Plan.* The City has, through its consultants, researched and analyzed the factors set forth in Section 11-36a-302 of the Impact Fees Act and has caused to be prepared a Drinking Water Impact Fee Facilities Plan (“IFFP”), as more particularly set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. The Drinking Water IFFP has been prepared based on reasonable growth assumptions for the City and general demand characteristics of current and future users of Drinking Water facilities within the City. The City Council finds that the Drinking Water IFFP identifies the impact on system

improvements created by development activity and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity. As shown in the Drinking Water IFFP, the City has considered all revenue sources to finance the impacts on system improvements, including grants, bonds, interfund loans, impact fees, and anticipated or accepted dedications of system improvements. The Drinking Water IFFP establishes that impact fees are necessary to maintain a proposed level of service that complies with applicable provisions of Section 11-36a-302 of the Impact Fees Act.

3. *Plan Certification.* The Drinking Water IFFP includes a written certification in accordance with Section 11-36a-306 of the Impact Fees Act.
4. *Adoption of Drinking Water Impact Fee Facilities Plan.* The Drinking Water IFFP as set forth in **Exhibit B**, is hereby adopted in its entirety by the City in accordance with applicable provisions of the Impact Fees Act.

## **SECTION V. WRITTEN IMPACT FEE ANALYSIS (IFA)**

1. *Written Impact Fee Analysis Required.* Pursuant to Section 11-36a-303 of the Impact Fees Act, each local political subdivision intending to impose an impact fee shall prepare a written analysis of each impact fee to be imposed and a summary of the impact fee analysis designed to be understood by a lay person. The impact fee analysis shall identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity; identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility; demonstrate how the anticipated impacts are reasonably related to the anticipated development activity; estimate the proportionate share of the costs for existing capacity that will be recouped and the costs of impacts on system improvements that are reasonably related to the new development activity; and identify how the impact fee is calculated.
2. *Drinking Water Impact Fee Analysis.* The City has, through its consultants, researched and analyzed the factors set forth in Section 11-36a-304 of the Impact Fees Act, including the proportionate share analysis required therein, and has caused to be prepared a Drinking Water Impact Fee Analysis ("IFA"), as more particularly set forth in **Exhibit B**, attached hereto and incorporated herein by this reference. The City Council finds that the Drinking Water IFA identifies the impacts upon public facilities required by the development activity and demonstrates how those impacts on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity, and identifies how the Drinking Water Impact Fees are calculated.
3. *Analysis Certification.* The Drinking Water IFA includes a written certification in accordance with Section 11-36a-306 of the Impact Fees Act.

4. *Adoption of Drinking Water Impact Fee Analysis.* The Drinking Water IFA as set forth in **Exhibit B**, is hereby adopted in its entirety by the City in accordance with applicable provisions of the Impact Fees Act.

## **SECTION VI. IMPACT FEE SCHEDULE AND FORMULA**

1. *Impact Fee Schedule or Formula Required.* Pursuant to Section 11-36a-402 of the Impact Fees Act, the City is required to provide a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement or the formula that the City will use to calculate each impact fee.
2. *Maximum Drinking Water Impact Fee Schedule.* Based on the Drinking Water IFA, the maximum Drinking Water Impact Fees which the City may impose on development activity within the defined Service Area is based on the following formula and specified fees:

**Drinking Water Impact Fee<sup>19</sup>  
Based on Meter Size**

Water Meter Size	ERC	Impact Fee
¾" or 1"	1.00	\$1,180
1 ½ "	3.33	\$3,929
2"	5.33	\$6,289
3"	10.00	\$11,799
4"	16.67	\$19,669
6"	33.33	\$39,327
8"	53.33	\$62,926

**Note 19 on the fee schedule would read: "If situations arise where one customer wishes to use multiple meters, or it appears that the proposed fees by meter size in Table 3-13 will not lead to a fair and equitable result, the City may instead calculate impact fees according to the following formula:" ...**

$$\text{"Impact fee} = (\text{Peak Day Water use [gpd]}) / (500 \text{ gpd/ERC}) * (\$1,180/\text{ERC})"$$

In accordance with Section 11-36a-402 of the Impact Fees Act, the City is authorized to adjust the standard impact fee at the time the fee is charged to respond to: (i) unusual circumstances found in specific cases; or (ii) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for

which an impact fee has been or will be collected; to ensure that the impact fees are imposed fairly; or (iii) a developer's studies and data which show how specific adjustments of the fee are applicable to the intended use(s).

3. *Developer Credits.* In accordance with Section 11-36a-402 of the Impact Fees Act, a developer may be allowed a credit against Drinking Water Impact Fees or proportionate reimbursement of Drinking Water Impact Fees if the developer dedicates land for a system improvement, builds and dedicates some or all of a system improvement; or dedicates a public facility that the City and the developer agree will reduce the need for a system improvement; *provided* that the system improvement is: (i) identified in the City's Drinking Water IFFP; and (ii) is required by the City as a condition of approving the development activity. To the extent required in Section 11-36a-402, the City shall provide a credit against Drinking Water Impact Fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities are system improvements, as defined herein and included in the Drinking Water IFFP; or are dedicated to the public and offset the need for an identified system improvement.

## **SECTION VII. CALCULATION OF IMPACT FEES**

1. *Impact Fee Calculations.* Pursuant to Section 11-36a-305, in calculating the proposed Drinking Water Impact Fees, the City has based such amounts calculated on realistic estimates and the assumptions underlying such estimates are more particularly disclosed in the Drinking Water IFA set forth in **Exhibit B**.
2. *Previously Incurred Costs.* To the extent that new growth and development will be served by previously constructed improvements, the City's Drinking Water Impact Fees may include public facility costs and outstanding bond costs related to the Drinking Water improvements previously incurred by the City. These costs may include all projects included in the Drinking Water IFFP, which are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations. Any future debt obligations determined to be necessitated by growth activity will also be included to offset the costs of future capital projects.

## **SECTION VIII. NOTICE AND HEARING**

1. *Notice.* All noticing requirements set forth in the Impact Fees Act, including, but not limited to, provisions of Title 11, Chapter 36a, Part 5, have been provided. Copies of the Drinking Water IFFP and Drinking Water IFA, together with a summary designed to be understood by a lay person, and this Impact Fee Ordinance, have been made available to the public by placing said materials, in the Santaquin City Library and the Community Development Offices located in Santaquin City Hall at least ten (10) days before the public hearing. Notice has also been provided in accordance with applicable provisions of *Utah Code Ann.* § 10-9a-205.
2. *Hearing.* The City Council held a public hearing regarding the Drinking Water IFFP, the Drinking Water IFA, and this Drinking Water Impact Fee Ordinance, on January

19, 2021, and a copy of the Ordinance was available in its substantially final form at the City Recorder's Office in the Santaquin City Hall before the date of the hearing, all in conformity with the requirements of *Utah Code Ann.* § 10-9a-205 and applicable noticing provisions of the Impact Fees Act.

#### **Section IX. Miscellaneous Provisions**

1. Contrary Provisions Repealed. Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.
2. Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.
3. Severability. If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
4. Other Impact Fees Not Repealed. Except as otherwise specifically provided herein, this Drinking Water Impact Fee Ordinance shall not repeal, modify or affect any impact fee of the City in existence as of the effective date of this Ordinance.

#### **Section X. Effective Date.**

The City Recorder shall deposit a copy of this ordinance in the official records of the City on January 19, 2021, and before 5:00 p.m. on that day, shall place a copy of this ordinance in three places within the City. This ordinance shall become effective at 5:00 p.m. on January 20, 2021.

**PASSED AND APPROVED** this 19<sup>th</sup> day of January 2021.

By: \_\_\_\_\_  
Mayor Kirk F. Hunsaker

**ATTEST:**

By \_\_\_\_\_  
K. Aaron Shirley, City Recorder

**Voting**

Council Member Nick Miller	_____
Council Member Betsy Montoya	_____
Council Member Lynn Mecham	_____
Council Member David Hathaway	_____
Council Member Jennifer Bowman	_____

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, K. AARON SHIRLEY, City Recorder of Santaquin City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Santaquin City, Utah, on the 19<sup>th</sup> day of January 2021, entitled

**“AN ORDINANCE ADOPTING THE CITY DRINKING WATER MASTER PLAN AND CAPITAL FACILITY PLAN; ADOPTING THE CITY DRINKING WATER IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS; ADOPTING DRINKING WATER IMPACT FEES; ADOPTING CERTAIN POLICIES RELATED TO IMPACT FEES; AND ESTABLISHING A SERVICE AREA FOR PURPOSES OF IMPACT FEES”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Santaquin City Utah this 19<sup>th</sup> day of January 2021.

\_\_\_\_\_  
K. AARON SHIRLEY  
Santaquin City Recorder  
(SEAL)

## AFFIDAVIT OF POSTING

STATE OF UTAH                     )  
  ) ss.  
COUNTY OF UTAH                )

I, **K. AARON SHIRLEY**, City Recorder of Santaquin City, Utah, do hereby certify and declare that I posted in three (3) public places the ordinance, which is attached hereto on the 20<sup>th</sup> day of January 2021.

The three places are as follows:

1.     Zions Bank
2.     Post Office
3.     City Office

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

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K. AARON SHIRLEY  
Santaquin City Recorder

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by K. AARON SHIRLEY.

My Commission Expires:

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Notary Public

Residing at:             Utah County