

## **ORDINANCE 19-16**

### **AN ORDINANCE ADOPTING AN IMPACT FEE FACILITIES PLAN AND ENACTING AN IMPACT FEE FOR WASTEWATER TREATMENT**

**WHEREAS**, the City of Smithfield (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**, wastewater treatment service for the City is provided by Logan City Corporation ("Logan City") pursuant to interlocal agreements collectively referred to as the "Logan City Agreements"; and

**WHEREAS**, the City desires to implement an impact fee for wastewater treatment, referred to hereafter as "Wastewater Treatment Impact Fee" 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 proposed Wastewater Treatment Impact Fee is based upon Logan City's Regional Wastewater Impact Fees Facilities Plan and Impact Fee Analysis, a copy of which is attached as Exhibit A, which the City Council hereby finds to be a reasonable plan that otherwise complies with the common law and the Act; and

**WHEREAS**, the proposed Wastewater Treatment Impact Fee established by this ordinance is reasonably related to the cost of providing such public facilities necessitated by anticipated future growth within the City or are reasonably related to public facility costs previously incurred by the City and/or Logan City and said fee does not exceed the highest fee justified by the Impact Fee Analysis prepared by Logan City; and

**WHEREAS**, the City has provided the required notice and public hearing requirements as established under the Act and related statutes; and

**WHEREAS**, a public hearing was held before the City Council on Wednesday, December 11, 2019 to receive public input and comment regarding the proposed Wastewater Impact Fee.

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

1. The following Sections shall be added to Chapter 3.20 “Municipal Impact Fees” of the Smithfield City Code as follows:

### **3.20.070 WASTEWATER TREATMENT IMPACT FEE**

#### **3.20.080 DEFINITIONS**

1. “System Improvements” means:
  - a. Existing public facilities that are:
    - i. Identified in the Impact Fee Analysis adopted in Section 3.20.090; and
    - ii. Designed to provide services to the service areas within the community at large; and
  - b. Future public facilities that are intended to provide services to service areas within the community at large.
2. “Equivalent Residential Unit” means that unit of demand that has an impact on the wastewater treatment infrastructure of Logan City that is equivalent to a single-family residence with a flow of 245 gallons per day.
3. “Public Facilities” for purposes of this ordinance means only the wastewater collection and treatment facilities that have a life expectancy of 10 or more years and are owned by Logan City and which are operated on behalf of the City.
4. “Development Activity” 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.
5. “Non-Standard Impact Fee” is defined as the Impact Fee for any development activity which may create different impact than what is standard for its land use, including without limitation users such as commercial and industrial facilities, public facilities, and multifamily residential units (more than one dwelling sharing one connection).

#### **3.20.090 IMPACT FEE FACILITIES PLAN AND ANALYSIS ADOPTED / SERVICE AREA**

1. The City Council hereby adopts the Impact Fee Facilities Plan (“IFFP”) and Impact Fee Analysis (“IFA”) prepared for Logan City by Lewis Young Robertson & Burningham, Inc. and dated August 2019 . Copies of the IFFP and IFA are on file with the City Recorder.

2. The entire area of the City is hereby designated as the one service area with respect to wastewater treatment facilities.

### **3.20.100 WASTEWATER TREATMENT IMPACT FEE**

1. A Wastewater Treatment Impact Fee is hereby established and imposed as a condition of the issuance of a building permit by the City for any development activity which creates additional demand and need for public facilities in accordance with the Act. The Wastewater Treatment Impact Fee shall be \$2,433.00 per Equivalent Residential Unit.
2. Logan City or the Environmental Services Department will collect the Wastewater Impact Fee at the time of building permit application. All impact fees must be paid in full before a building permit is issued.
3. Logan City and/or the Logan City Environmental Director is authorized to adjust the standard impact fee described above at the time the fee is paid in order to:
  - a. Respond to:
    - i. Unusual circumstances 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; and
  - b. Ensure that the impact fee is imposed fairly.
4. The amount of the Wastewater Treatment Impact Fee to be imposed on a particular development may be adjusted by Logan City and/or the Logan City Environmental Director for a particular development, if the developer submits studies and/or data tending to show that the impact fee for the development should be adjusted. In such a case, the impact fee shall be calculated according to the formula for the Non-Standard Impact Fee.
5. Applications for adjustments are to be filed with Logan City and/or the Logan City Environmental Director at the time the applicant first requests the extension of service to the applicant's development or property.
6. The Non-Standard Impact Fee is calculated by determining the Estimated Flow divided by 245GPD multiplied by \$2,433.00. The City of Logan Environmental Director or his designee is responsible for the assessment and adjustment of the Non-Standard Impact Fee.

7. Subject to approval by the Logan City and/or the Logan City Environmental Director, developers, including a school district or a charter school, may be allowed a credit against Impact Fees or proportionate reimbursement of Impact Fees if the developer 1) dedicates land for a System Improvement, 2) builds and dedicates some or all of a System Improvement, or 3) dedicates a public facility that Logan City and the developer agree will reduce the need for a System Improvement; provided that the System Improvement is: (i) identified in the Logan City Impact Fee Facility Plan; and (ii) is required by Logan City as a condition of approving the Development Activity.
8. To the extent required in Section 11-36a-402 of the Act, the City, subject to the approval of Logan City and/or the Logan City Environmental Director, shall provide a credit against Impact Fees for any dedication of land for, improvements to, or new construction of any System Improvements provided by the developer if the facilities, 1) are a System Improvement; or 2) are dedicated to the public and offset the need for an identified System Improvement.

### **3.20.110 ACCOUNTING/EXPENDITURE**

Logan City shall account for, expend, and refund Wastewater Treatment Impact Fees in accordance with provisions of the Act.

### **3.20.120 ADMINISTRATIVE CHALLENGES AND APPEAL**

1. Any person or entity required to pay a Wastewater Treatment Impact Fee imposed by this Ordinance who believes the fee does not meet the requirements of law may file a written request for information with Logan City and/or the Logan City Environmental Director as provided by law.
2. Within two weeks after the receipt of the request for information, Logan City and/or the Logan City Environmental Director shall provide the person or entity with the written impact fee analysis required by the Act and with any other relevant information relating to the impact fee.
3. Within thirty (30) days after paying an 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 Recorder setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged.
4. Upon receipt of the written appeal, the City Recorder shall forward the appeal, together with a recommendation, to the City Council and shall schedule a public hearing before the City Council on the appeal for the purpose of receiving input from all interested persons. The City Council shall thereafter render its decision on the appeal no later than thirty (30) days after the date the appeal was filed with the City Recorder.

2. Any parts or portions of previous ordinances, resolutions, rules, and regulations related to wastewater treatment impact fees which are inconsistent or in conflict with this ordinance are hereby repealed. This Ordinance does not affect or repeal any provisions of any previous ordinance, resolution, rule, or regulation related to any other impact fees of the City other than wastewater treatment impact fees. All policies, ordinances, rules, and regulations related to wastewater impact fees that are not in conflict with this Ordinance remain in effect.
3. If any provision of this ordinance is declared to be invalid or enforceable by a court of competent jurisdiction, the remainder shall not be affected thereby.
4. As required by Section 401(2) of the Act, this ordinance shall become effective 90 days after passage by the City Council and public notice as required by law.

ADOPTED and PASSED by the Smithfield City Council this 11th day of December, 2019.

**SMITHFIELD CITY CORPORATION**

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Jeffrey H. Barnes, Mayor

**ATTEST:**

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Justin B. Lewis, City Recorder