

ORDINANCE NO. 2023-13

AN ORDINANCE OF LaVERKIN CITY, APPROVING AND ADOPTING AN UPDATED STORMWATER IMPACT FEE FACILITIES PLAN AND ANALYSIS, FOUND IN AND ALSO KNOWN AS THE LA VERKIN CITY STORMWATER MASTER PLAN (JUNE 2023), AND ESTABLISHING AND ADOPTING AN UPDATED STORMWATER (DRAINAGE) IMPACT FEE TO MEET THE DEMANDS OF NEW GROWTH [AMENDING, SUPERSEDING, AND REPLACING THE EXISTING STORMWATER IMPACT FEE AND SUPPORTING IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS].

WHEREAS, the City Council of LaVerkin City ("the City") finds and determines that growth and development activity in the City will create additional demand and need for stormwater (*a.k.a.*, "drainage") facilities to be built and enlarged to support said growth and development in the City; and

WHEREAS, the City Council, pursuant to Section 11-36a-301, *Utah Code Annotated* ("UCA") has had a study and analysis performed to determine existing stormwater (drainage) conditions and needs and to determine projected needs as the City grows during the next 10 years, which study and analysis [constituting the required impact fee facilities plan and impact fee analysis required by the *Impact Fee Act* (Section 11-36a-101, et seq, UCA, for the updated stormwater impact fees)] are contained in, comprise, and are collectively known as the *LaVerkin City Stormwater Master Plan (June 2023)* ("the Master Plan"), prepared by Sunrise Engineering, Inc., and adopted by the City on August 16, 2023, by Resolution No. R-2023-09; and

WHEREAS, the City Council desires to give formal acceptance and approval of the Master Plan as the City's stormwater (drainage) impact fee facilities plan and impact fee analysis; and

WHEREAS, the City Council desires to impose stormwater (drainage) impact fees based upon the impact fee facilities plan and impact fee analysis contained in the Master Plan; and

WHEREAS, the City Council finds that stormwater (drainage) impact fees should be charged to all new residential development in the City, which may be used to pay for debt service associated with the excess capacity built into existing or new facilities or the cost of additional improvements that are required to support new growth and development as it occurs; and

WHEREAS, the City Council, after a public notice as required by law, held a public hearing on November 1, 2023, to consider the adoption of this Ordinance, a copy of which, as well as the copy of the Master Plan [containing the stormwater (drainage) impact fee facilities plan and impact fee analysis] has been made available for public inspection at the LaVerkin City Office Building for a period of at least ten (10) days prior to such public hearing.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF LaVERKIN, UTAH:

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SECTION I: ADOPTION OF THE IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS:

The City hereby approves and adopts the **stormwater (drainage) impact fee facilities plan and impact fee analysis** contained in, comprising, and collectively known as the ***LaVerkin City Stormwater Master Plan (June 2023)*** (“the Master Plan”), prepared by Sunrise Engineering, Inc., and adopted by the City Council on August 16, 2023, by Resolution No. R-2023-09.

SECTION II: AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY REVISING THE STATUTORY REFERENCE IN SUBSECTION A OF SECTION 9-2-1:

Subsection A of Section 9-2-1 of *The LaVerkin City Code* -

which currently reads as:

Definitions: The city hereby adopts the definitions set forth in Utah Code Annotated section 11-36-102 for the terms used in this chapter.

is hereby amended to read as follows:

Definitions: The city hereby adopts and incorporates the definitions set forth in Utah Code Annotated Section 11-36a-102, UCA, for the terms used in this chapter.

SECTION III: AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY ADDING A NEW SUBSECTION 1 AND RENUMBERING THE CURRENT SUBSECTIONS 1 AND 2 AS 2 AND 3 IN SUBSECTION d OF SECTION 9-2-1:

Subsection D of Section 9-2-1 of *The LaVerkin City Code* -

which currently reads as:

D. Adjustments:

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1. The city council may adjust the impact fees set forth herein upon a showing of unusual circumstances and to ensure fairness in the allocation and imposition of impact fees upon new development. Such adjustment shall be made only upon specific written request to the city council by persons subject to payment of such fees and after consideration of such matter by the city council at a regular meeting of the city council.
2. The city council may adjust the amount of impact fees to be paid on any specific development based upon certified and reliable data and studies submitted by the developer evidencing that the impact fee imposed is unfair or not reasonably related to the impacts caused by such new development.

is hereby amended to read as follows:

D. Adjustments:

1. A developer may be allowed to receive a credit against or a proportionate reimbursement of 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. A credit against impact fees shall be granted for any dedication of land for, improvement to, or new construction of any system improvement provided by the developer if the facilities are system improvements or are dedicated to the public and offset the need for an identified future improvement.
2. The city council may adjust the impact fees set forth herein upon a showing of unusual circumstances and to ensure fairness in the allocation and imposition of impact fees upon new development. Such adjustment shall be made only upon specific written request to the city council by persons subject to payment of such fees and after consideration of such matter by the city council at a regular meeting of the city council.
3. The city council may adjust the amount of impact fees to be paid on any specific development based upon certified and reliable data and studies submitted by the developer evidencing that the impact fee imposed is unfair or not reasonably related to the impacts caused by such new development.

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SECTION IV: REAFFIRMATION, RESTATEMENT, AND READOPTION OF THE REMAINDER OF SECTION 9-2-1 OF THE LaVERKIN CITY CODE, AS NOW CONSTITUTED.

Subsections B, C, and E of Section 9-2-1 of *The LaVerkin City Code* -

which currently read as:

- B. Service Area Established: The city hereby establishes one service area consisting of the entire geographical area of the city.
- C. Schedule Adopted: Based upon an analysis study, the type of development activity and the improvements involved, the city hereby adopts the schedule of impact fees set forth in section 9-2-2 of this chapter.
- E. Increase In Density: Any home or structure which increases the family occupancy of that home or structure shall pay all current impact and connection fees applicable for each family unit increase. All increases in family density must be properly permitted and meet current ordinances. This is not meant to govern temporary "mother-in-law" type or other temporary blood relative type arrangements.

are hereby restated, reaffirmed, and readopted as presently constituted.

SECTION V: AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY REVISING A PORTION OF SECTION 9-2-2:

The portion of Section 9-2-2, Schedule of Impact Fees, of *The LaVerkin City Code*, regarding Storm drain impact fees –

which currently reads as:

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Storm drain:		
	R-3-6	\$461.00
	R-1-8	\$615.00
	R-1-10	\$769.00
	R-1-14	\$1,070.00
	R-A-1	\$3,344.00

is hereby amended to read as follows:

Stormwater (drainage):		
	Residential	\$5,086.00 per acre*
	Nonresidential or Commercial	\$7,629 per acre*
		*See Section 9-2-4 below

SECTION VI: AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY ADDING A NEW SECTION TO BE KNOWN AS SECTION 9-2-4 AND ENTITLED “STORMWATER (DRAINAGE) IMPACT FEES”

Section 9-2-4 of *The LaVerkin City Code* is hereby added to read as follows:

SECTION 9-2-4. STORMWATER (DRAINAGE) IMPACT FEE. .

Section 9-2-4. Stormwater (Drainage) Impact Fee:

- A. The City hereby renames, reestablishes, and expands the scope and breadth of **stormwater (drainage) impact fee**, to be charged to all new development within the City [except for (a) City-owned properties and (b) school district and charter school properties, which are hereby exempted in accordance with Section 11-36a-403, UCA)].
- B. The **Stormwater (Drainage) Impact Fee** (formerly called Storm drain fees) shall be as follows:
 1. **Residential Impact Fee:** Five Thousand Eighty-six Dollars (**\$5,086.00**) per acre.
 2. **Nonresidential or Commercial Impact Fee:** Seven Thousand Six Hundred Twenty-nine Dollars (**\$7,629**) per acre.

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- C. The per-acre impact fee (or fractional portion thereof) shall be calculated and charged to all new nonexempted development within the City as follows: the size of the parcel being developed, multiplied by the applicable fee found in subsection "1" or "b" of Section 9-2-4.B (depending on whether the development is residential or nonresidential/commercial in nature).
1. Parcels located in residential zones (including the mobile home zone) shall be assessed the residential impact fee.
 2. Parcels located in nonresidential zones (including commercial zones) shall be assessed the nonresidential or commercial impact fee.
 3. Assessed Impact fee = size of parcel (actual acreage or portion thereof) x the applicable impact fee set forth in Section 3 above.

SECTION VII: AMENDMENT OF THE CODE OF THE LaVERKIN CITY CODE, BY ADDING ADDITIONAL SUBSECTIONS TO SECTION 9-2-1:

The following administrative sections are hereby added to Section 9-2-1 of *The LaVerkin City Code* to read as follows:

- F. Impact fees shall be fair, proportionate, supported by, and not in excess of the maximum fees justified by (and as calculated and set forth in) the approved impact fee facilities plan and analysis serving as the basis therefor.
- G. Unless and except as may be required by a servicing district (e.g., water conservancy district, solid waste district, sewer district, etc.), impact fees shall be paid to the City prior to final plat recordation or prior to issuance of a building permit for an existing platted lot where such fees were not collected at the time of final plat recordation. If the servicing district requires the payment at a time prior to that which is provided above, the district's required date of payment shall take precedence.
- H. All impact fees assessed and received by the City pursuant to the Ordinance shall be accounted for, used, and (as appropriate) refunded in compliance with the requirements of Section 11-36a-601, *et seq.*, UCA.
- I. Subject to the time limitations as provided in Section 11-36a-702, UCA, any person or entity that has paid the impact fee pursuant to this Chapter may challenge the impact fee as provided for in Section 11-36a-701, *et seq.*, UCA, by filing:
1. A written administrative appeal to the City pursuant to Subsection J of this Section;
or
 2. A request for arbitration as provided in Utah Code Ann. 11-36a-705, as amended;
or

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3. An action in state district court.
- J. A written administrative appeal challenging the impact fee or fees may be made to the City by any person or entity that has paid or made an impact fee required by this Chapter.
1. To do so, the aggrieved person or entity shall file, in writing with the City Recorder, a letter or notice of appeal, setting forth (a) the name of the person or entity challenging the impact fee or fees, (b) the specific impact fee or fees challenged, (c) evidence of payment by the person or entity of the impact fee or fees challenged, and (d) alleged grounds for such challenge.
 2. A written administrative appeal (subject to the time limitations as provided in Section 11-36a-702, UCA, containing the information set forth herein and filed with the City, comprise the necessary document for filing an administrative appeal as provided in Section 11-703(2)(a),UCA.
 3. An administrative appeal shall be considered and decided by the "Appeal Authority", which is currently designated as the City Council, or such other body as the City shall designate, within thirty (30) days after the day on which the appeal is filed.
 4. The person or entity challenging or appealing the impact fee may appear at the hearing and present any written or oral evidence deemed relevant to the imposition of the impact fee.
 5. The decision of the Appeal Authority shall be in writing and shall be supported by written findings. No appeal shall be permitted unless and until the impact fees at issue have been paid.

SECTION VIII: REPEAL OF CONFLICTING PROVISIONS.

All ordinances or resolutions, or parts or provisions thereof, in conflict with the provisions of this Ordinance, are hereby superseded and repealed to the extent that they conflict herewith.

SECTION IX: SEVERABILITY.

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

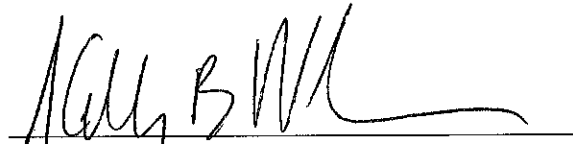
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SECTION X: EFFECTIVE DATE.

In the opinion of the City Council of LaVerkin City, it is necessary for the preservation of the peace, welfare, health, and safety of the inhabitants of LaVerkin City that this Ordinance take effect as soon as possible. This Ordinance, therefore, shall take effect immediately upon its passage and first publication as provided by law, subject to the following:

- A. The **stormwater (drainage) impact fee facilities plan and impact fee analysis** contained in, comprising, and collectively known as the *LaVerkin City Stormwater Master Plan (June 2023)* ("the Master Plan"), prepared by Sunrise Engineering, Inc., was adopted by the City Council on August 16, 2023, by Resolution No. R-2023-09; was effective as a Master Plan on August 16, 2023; and is effective as an impact facilities plan and impact fee analysis upon publication or posting, as required by law.
- B. The **stormwater (drainage) impact fee** portion of this Ordinance shall take effect ninety (90) days after approval (7:30 p.m., January 30, 2024) as required by law.

PASSED AND ADOPTED by the City Council of LaVerkin City this 1st day of November, 2023.


KELLY WILSON, Mayor

ATTEST:


CHRISTY BALLARD, City Recorder