

ORDINANCE NO. 6023

AN ORDINANCE TO ENACT WATER AND WASTEWATER DEVELOPMENT IMPACT FEES, ADOPTING RULES AND REGULATIONS RELATED THERETO, PURSUANT TO ARK. CODE ANN. §14-56-103; AND AMENDING CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, ARKANSAS.

WHEREAS, the City of Springdale, Arkansas has created the Springdale Water & Sewer Commission (“the Commission”), wherein the Commission has full and complete authority to manage, operate, improve, extend, and maintain the City’s municipal water works and distribution system; has full and complete authority to manage, operate, extend, and maintain the City’s sewer system; and, operates a water and wastewater system for the citizens of the City of Springdale and for certain properties outside of the municipal limits of the City of Springdale, all pursuant to the laws of the State of Arkansas;

WHEREAS, the Commission has the authority to adopt such rules and regulations as it deems necessary and expedient for the proper operation and management of the water works and distribution system and sewer plant and collection system, and shall have authority to alter, change or amend such rules and regulations as deemed appropriate by the Commission, and pursuant to the laws of the State of Arkansas;

WHEREAS, the City of Springdale is experiencing substantial growth in population, business and industry which has put a strain on existing water and wastewater services and facilities and has created a need for the expansion of such water and wastewater services and facilities;

WHEREAS, Ark. Code. Ann. §14-56-103 allows a city to enact development impact fees upon or against a development in order to generate revenue for funding for recouping expenditures of the municipality or municipal service agency that are reasonably attributable to the use and occupancy of the development;

WHEREAS, the Commission and the City Council of the City of Springdale find that the cost of increasing the capacity of existing water works, water distribution systems, and waste water distribution systems within the City of Springdale to accommodate the anticipated growth in the City of Springdale should be borne by those developments that make such increases necessary; and

WHEREAS, the Commission and the City Council of the City of Springdale finds that development impact fees, as authorized by Ark. Code Ann. §14-56-103, are necessary for the health, safety and welfare of the citizens of the City of Springdale as well as for other reasons set forth in this Ordinance.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Springdale, Arkansas, as follows:

Section 1. Legislative Findings.

The City Council of Springdale, Arkansas, finds, determines and declares that:

a) System expansion required. The protection of the health, safety, and general welfare of the citizens of the City of Springdale requires that the City’s water and wastewater facilities be expanded and improved to accommodate growth and development with the city.

b) System demand. New residential and nonresidential development imposes increased and excessive demands upon the existing water and wastewater facilities and

often overburdens the existing system facilities. Provided, further, new development is expected to continue, and will place ever-increasing demands on the city to provide these facilities to serve new development.

c) Revenues. Revenues generated from new development often does not generate sufficient funds to provide the necessary water and wastewater facilities to accommodate new development; therefore, the creation of an equitable local water and wastewater impact fee system would enable the city to impose a proportionate share of the costs of the needed improvements to capital facilities to accommodate new development.

d) Study conducted. In order to implement equitable development impact fees, the Commission caused to be prepared a Water and Sewer Rate Study and Impact Fee Study with a Capital Plan contained therein, hereinafter termed "Capital Plan". Said Capital Plan is incorporated herein by reference and sets forth reasonable methodologies and analysis for determining the impacts of various types of development on the City's system capital facilities, and for determining the costs of acquiring the improvements necessary to meet the demands for such services created by new development.

e) Standards established. The City hereby establishes as City standards the assumptions and level of service standards in the study as part of its current plans for future expansions to the City's system capital facilities.

f) Impact fee use limited. The impact fees described in this ordinance are based on the study, and do not exceed the costs of improvements to serve new development that will pay the impact fees. This is intended to be a local improvement impact fee as to water and wastewater.

g) Benefit. Those capital water and wastewater facilities/improvements listed in the Capital Plan will benefit all new development that depends on city services, and it is therefore appropriate to treat the entire system as a single service area for purposes of calculating, collecting, and spending the local government impact fees as to water and wastewater.

h) Impact fee relationship. There is both a rational nexus and rough proportionality between the development impacts created by each type of development covered by this ordinance and the development impact fees that such development will be required to pay for water and wastewater.

i) Impact fee purpose. This ordinance creates a system by which water and wastewater development impact fees paid by new development will be used to finance, defray or reimburse all or a portion of the costs incurred by the Commission and the City to construct improvements for system's capital water and wastewater facilities in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.

Section 2. Intent.

a) Capital Plan. This ordinance is adopted to assist in the implementation of the Capital Plan for water and wastewater as set forth in the Capital Plan, which plan was reviewed and approved by the Commission and the City Council and used in the independent fee calculation study. To that end, the intent of this ordinance is to ensure that new development bears a proportionate share of the costs of improvements to capital wastewater facilities; to ensure that such proportionate share does not exceed the costs of improvements for capital wastewater facilities required to accommodate new development; and to ensure that funds collected from new development are actually used for improvements for capital wastewater facilities that benefit such new development.

b) Impact Fee purpose. It is further intent of this ordinance that new development pays for its fair share of the costs of local improvements for capital water and wastewater facilities required to accommodate new development through imposition of impact fees that will be used to finance, defray, or reimburse all or a portion of the costs incurred by the Commission and the City to construct improvements to the capital

water and wastewater facilities that serve or benefit such new development. It is not the intent of this ordinance to collect any money from any new development in excess of the actual amount necessary to offset new demands for capital water and wastewater facilities.

c) Funds restricted. It is not the intent of this ordinance that any monies collected from any development impact fee deposited in the wastewater impact fee trust ever be commingled with monies from any other City funds or accounts, other Commission funds or accounts, or ever be used for a type of facility or equipment different from that for which the fees are paid, or are ever used to replace or rehabilitate existing improvements as set forth in the Capital Plan.

Section 3. Water and Waste Water Development Impact Fee Imposed.

The provisions of this section shall apply to all of the territory within the jurisdiction of the City of Springdale and areas outside of the City's jurisdiction where the Commission and the City provide water and wastewater service. To that end, Chapter 118 of the Code of Ordinances of the City of Springdale is hereby amended to add a new Article, to be known as:

CHAPTER 118. ARTICLE VI. WATER AND WASTEWATER DEVELOPMENT IMPACT FEES.

Sec. 118-261. Definitions.

When used in this section, the terms listed below shall have the following meanings unless the context requires otherwise. Singular terms shall include their plural.

“Capital Plan” means the Water and Sewer Rate Study and Impact Fee Study prepared by TischlerBise in September of 2024 and adopted by the Commission and the City, or a subsequent similar study, which serves as the basis for the calculation of the water and wastewater development impact fees and is hereby adopted and incorporated by reference.

“City” means the City of Springdale, Arkansas or its authorized representative.

“City Council” means the governing body of the City of Springdale.

“Commission” means the Springdale Water & Sewer Commission.

“Sewer Improvements” means the sewer improvements identified in the Capital Plan; more specifically: #1377 – Johnson Force Main Improvements (\$12,653,152); these improvements enhance the capacity of the wastewater system, including planning, engineering, acquisition, construction, and interest on debt incurred to finance capital improvements, but does not include the operation, maintenance, replacement, or repair of existing improvements. A replacement of an existing improvement or facility with a new improvement or facility of greater capacity shall be partially eligible based on the increase in capacity.

“Wastewater System” means the set of eligible wastewater collection facilities owned and operated by the Commission and the City.

“Water Improvements” means the water improvements identified in the Capital Plan; more specifically: #1339 – West side Water Elevated Tank (\$11,500,000); and, #1338 – West side Water Lines (\$44,152,707); these improvements enhance the capacity of the water system, including planning, engineering, acquisition, construction, and interest on debt incurred to finance capital improvements, but does not include the operation, maintenance, replacement, or repair of existing improvements. A replacement of an existing improvement or facility with a new improvement or facility of greater capacity shall be partially eligible based on the increase in capacity.

“Water System” means the set of eligible water distribution facilities owned and operated by the Commission and the City.

Sec. 118-262. Fee Assessment and Collection.

(1) No water meter shall be installed or wastewater connection made until the applicable water and wastewater development impact fees have been paid to Springdale Water Utilities based on the size of the meter according to the following schedule. These represent the fees calculated in the Capital Plan.

| <u>Meter Size</u> | <u>Water</u> | <u>Wastewater</u> |
|-------------------|--------------|-------------------|
| 5/8" x 3/4" | \$ 4,712 | \$ 1,154 |
| 1" | \$ 7,869 | \$ 1,927 |
| 1-1/2" | \$ 15,690 | \$ 3,843 |
| 2" | \$ 25,113 | \$ 6,150 |
| 3" | \$ 50,274 | \$12,312 |
| 4" | \$ 78,544 | \$19,236 |
| 6" | \$157,041 | \$38,460 |

(2) In the event of the replacement of an existing water meter with a larger one, the applicable impact fee shall be the difference between the fees for the two meter sizes.

(3) In the event that the proposed water meter size is not shown in the schedule set forth in subsection (B)(1) above, the City shall calculate the appropriate impact fee using the same methodology used in the Technical Report.

(4) No wastewater impact fee shall be assessed for meters that are dedicated exclusively for irrigation purposes.

Sec. 118-263. Accounting and Expenditure of Funds.

(1) For both water and wastewater, a special interest-bearing development impact fee account that is distinct from the general fund of the Commission and the City is created, and the development impact fees received shall be deposited in the special account, along with accrued interest. No other revenues or funds shall be deposited in the impact fee account.

(2) The funds in the water and wastewater development impact fee accounts shall be used only for the following purposes:

- (a) to acquire or construct the Sewer Improvements;
- (b) to acquire or construct the Water Improvements;
- (c) to pay debt service on the portion of any current or future general obligation bond or revenue bond used to finance the Water or Sewer Improvements and attributable to excess capacity available to serve new water or wastewater customers;
- (d) to pay fees to an independent qualified professional, who is not an employee of the Commission or the City, for the preparation or updating of the Capital Plan; or
- (e) to make refunds pursuant to Section 118-264 herein.

(3) The Commission shall maintain accurate records of each development impact fee paid, including the name of the person paying the fee, the tax parcel number and address for which the fee was paid, the date of payment, and the amount received in payment.

(4) The fee assessment and collection of the water development impact fees authorized herein shall cease at such time as the Water Improvements are completed as provided in the Capital Plan;

(5) The fee assessment and collection of the wastewater development impact fees authorized herein shall cease at such time as the Sewer Improvements are completed as provided in the Capital Plan;

Sec. 118-264. Refunds.

(1) Fees not spent within seven (7) years after the date on which the fee was paid shall be eligible for refund according to the following provisions. Money in each impact fee account shall be considered to be spent in the order collected on a first-in/first-out basis.

(2) A refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.

(3) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date on which the refund becomes due.

(4) The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(5) The refund shall be made on a pro rata basis.

(6) The refund shall be paid in full not later than ninety (90) days after the date certain upon which the refund becomes due.

Sec. 118-265. Appeals.

Any determination made by an official of the Commission or City charged with the administration of any part of this ordinance may be appealed to the City Council by filing with the City Clerk within fifteen (15) days of the date of the determination being appealed: (1) a written notice of appeal on a form provided by the Commission or the City, (2) a written explanation of why the appellant feels that a determination was in error, and (3) an appeal fee established by the City, if any. The City Council shall promptly fix a time and place for hearing the appeal, and the City Clerk or designee shall mail notice of the hearing to the appellant at the address given in the notice of appeal by first-class mail postage prepaid. The hearing shall be conducted at the time and place stated in such notice given by the City Council. The determination of the City Council shall be the final administrative determination of the City.

Sec. 118-266. Effective Date/Application.

The provisions of this section shall be effective on April 1, 2025. Provided, however, that any Preliminary Plat, Large Scale Development, or Non-Large Scale Development approved by the Springdale Planning Commission pursuant to Chapter 112 of the Code of Ordinances of the City of Springdale, Arkansas, and approved by Springdale Water Utilities prior to the effective date shall be exempt from the development impact fees set forth herein.

Sec. 118-267. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Springdale District Court, or any other court of competent jurisdiction, be such fines and penalties as set forth in Section 1-9 of the Code of Ordinances of the City of Springdale, Arkansas, as may now or hereafter be enacted by the City Council.

PASSED AND APPROVED this 26th day of November, 2024.

Doug Sprouse, MAYOR

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY