

SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT

RESOLUTION NO. 2021-01

IMPACT FEE ENACTMENT RESOLUTION

July 22, 2021

A RESOLUTION OF THE ADMINISTRATIVE CONTROL BOARD OF THE SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT ADOPTING AN IMPACT FEE ANALYSIS AND IMPOSING IMPACT FEES, PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES, PROVIDING FOR APPEAL, ACCOUNTING, AND SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS

WHEREAS, Snyderville Basin Special Recreation District (the “**District**”) is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the District is authorized pursuant to the “**Utah Impact Fees Act**,” Utah Code §§ 11-36a-101 *et seq.* to adopt and impose impact fees as a condition of development approval; and

WHEREAS, the District provided written notice of its intent to prepare an Impact Fee Facilities Plan pursuant to Utah Code § 11-36a-501; and

WHEREAS, the District has caused an Impact Fee Facilities Plan (the “**Facilities Plan**”) to be prepared by Zions Bank Public Finance, a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, Zions Bank Public Finance has certified its work on the Facilities Plan under Utah Code § 11-36a-306(1); and

WHEREAS, the District provided notice and held a public hearing prior to adopting the Facilities Plan in satisfaction of Utah Code § 11-36a-502; and

WHEREAS, the District adopted the Facilities Plan by Resolution No. SBSRD 2021-08; and

WHEREAS, prior to preparing the Impact Fee Analysis (the “**Impact Fee Analysis**”), the District provided notice as set forth in Utah Code § 11-36a-503; and

WHEREAS, the District has caused an Impact Fee Analysis to be prepared by Zions Bank Public Finance, a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference; and

WHEREAS, Zions Bank Public Finance has certified its work on the Impact Fee Analysis under Utah Code § 11-36a-306(2); and

WHEREAS, in accordance with Utah Code § 11-36a-504(1)(d)(i) and § 17B-1-111(1)(a)(ii), the District made this Impact Fee Enactment Resolution (the “**Resolution**”) available to the public on or before July 7, 2021; and

WHEREAS, in accordance with Utah Code § 17B-1-111, the District posted notice of the public hearing with respect to the proposed Resolution in at least three public places within the District on or before July 7, 2021; and

WHEREAS, in accordance with Utah Code § 17B-1-111, the District published notice of such public hearing in the Park Record, a newspaper of general circulation in the District, on July 7, 2021 and July 14, 2021; and

WHEREAS, in accordance with Utah Code § 11-36a-504((1)(d)(ii), the District, having previously made this Resolution available to the public, posted notice of its intent to adopt this Resolution on the Utah Public Notice Website on or before July 7, 2021; and

WHEREAS, on or before July 7, 2021 a copy of the Impact Fee Analysis and a summary of the impact fee analysis prepared in accordance with Utah Code §11-36a-303 was placed on the District’s website; and

WHEREAS, the Administrative Control Board (the “**Board**”) held a public hearing on July 22, 2021 regarding the Impact Fee Analysis and Resolution; and

WHEREAS, after careful consideration and review of the comments at the public hearing, the Board has determined that it is in the best interest of the health, safety, and welfare of the inhabitants of the District to enact new impact fees.

NOW, THEREFORE, BE IT RESOLVED by the Administrative Control Board of the Snyderville Basin Special Recreation District, as follows:

SECTION 1: FINDINGS.

The Board finds and determines as follows:

1.1. All required notices have been given and public hearings conducted as required by the Impact Fee Act with respect to the Facilities Plan, Impact Fee Analysis and this Resolution.

1.2. Growth and development activities in the District will create additional demands on its recreational facilities. The capital facility improvement requirements which are analyzed in the Facilities Plan and the Impact Fee Analysis are the direct result of additional facility needs caused by future development activities. The persons responsible for growth and development activities should pay a proportionate share of the costs of the recreational facilities needed to serve the growth and development activity.

1.3. Impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future, in comparison with the benefits already received and yet to be received.

1.4. In enacting and approving the Impact Fee Analysis and this Resolution, the Board has taken into consideration, and in certain situations will consider on a case-by-case basis in the future, the future capital facilities and recreational needs of the District, the capital financial needs of the District which are the result of the District's future facilities needs, the distribution of the burden of costs to different properties within the District based on the use of recreational facilities of the District by such properties, the financial contribution of those properties and other properties similarly situated in the District at the time of computation of the required fee and prior to the enactment of this Resolution, all revenue sources available to the District, and the impact on future recreational facilities that will be required by growth and new development activities in the District.

1.5. The provisions of this Resolution shall be liberally construed in order to carry out the purpose and intent of the District in establishing a program of impact fees in compliance with the Utah Impact Fees Act.

SECTION 2: DEFINITIONS.

2.1. Except as provided below, words and phrases that are defined in the Impact Fees Act shall have the same meaning in this Resolution.

2.2. "Board" means the Administrative Control Board of the Snyderville Basin Special Recreation District.

2.3. "District" means the Snyderville Basin Special Recreation District.

2.4. "Facilities Plan" means the plan prepared for the District as required by Utah Code § 11-36a-301.

2.5. "Impact Fee Analysis" means the analysis prepared for the District as required by Utah Code § 11-36a-303.

2.6. "Project Improvements" does not mean system improvements.

2.7. "Request for Information" means a written request submitted to the District for information regarding the impact fee.

2.8. "Resolution" means this Impact Fee Enactment Resolution.

2.9. "Service Area" means all areas within the District. A map of the District boundaries is attached hereto as **Exhibit C**.

2.10. "Summary" means the summary of the Impact Fee Analysis.

SECTION 3: ADOPTION OF IMPACT FEES.

3.1. Impact Fee Analysis. The Board hereby approves and adopts the Impact Fee Analysis attached as **Exhibit B**.

3.2. Impact Fees. Impact fees are hereby imposed in the Service Area as a condition of any development activity that impacts public facilities in order to mitigate the impact of such development on public facilities. Impact fees shall be paid to the District at the time of the building permit application to Summit County, and it is the policy of Summit County that no building permit shall be issued unless and until the impact fees required by this Resolution have been paid in full.

3.3. Impact Fee Schedule. The impact fees imposed are as set forth in the Impact Fee Schedule attached hereto as **Exhibit D** and incorporated herein by reference. Unless the District is otherwise bound by a contractual requirement or the impact fees have been prepaid according to a prior agreement with the District, the impact fee shall be determined from the impact fee schedule in effect at the time of payment.

3.4. Adjustments. The District may adjust the impact fee imposed on a particular project or development at the time the impact fee is charged as necessary:

- (a) to respond to unusual circumstances in specific cases;
- (b) to respond to a request for a prompt and individualized impact fee review for the development activity of an agency of the State of Utah, a school district, or charter school;
- (c) to respond to a request for a prompt and individualized impact fee review for an offset or credit for a public facility for which an impact fee has been or will be collected;
- (d) to ensure that impact fees are imposed fairly; or
- (e) based upon studies and data submitted by a developer.

3.5. Credits and Reimbursements.

- (a) A developer may be allowed a credit against or proportionate reimbursement of impact fees if a developer:
 - (i) dedicates land for a system improvement;
 - (ii) builds and dedicates some or all of a system improvement; or
 - (c) dedicates a public facility that the District and the developer agree will reduce the need for a system improvement.

- (b) A credit against impact fees shall be granted for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
 - (i) are system improvements, or
 - (ii) are dedicated to the public and offset the need for an identified system improvement.

3.6. Waiver for Public Purpose. The District may, on a project-by-project basis, authorize exemptions or adjustments to the impact fee in effect for those projects the District determines to be of such benefit to the community as a whole to justify the exemption or adjustment. Such projects may include low income housing.

3.7. Additional Fees and Costs. The impact fees imposed hereby are separate from and in addition to user fees and other charges lawfully imposed by the District for new development, such as engineering and inspection fees, building permit fees, review fees, hookup fees, connection fees, fees for project improvements, and other fees and costs that may not be included as itemized component parts of any impact fee.

SECTION 4: IMPACT FEE ACCOUNTING.

4.1. Impact Fee Accounts. The District shall establish a separate interest-bearing ledger account for collection and deposit of impact fees received. Interest earned on such account shall be retained in that account.

4.2. Reporting. At the end of each fiscal year, the District shall prepare a report on the impact fee ledger account established as required herein generally showing the source and amount of all monies collected, earned, and received by the account and each expenditure from the account. The report shall also identify impact fee funds by the year in which they were received, the project from which the funds were collected, the capital projects for which the funds were budgeted, and the projected schedule for expenditure. The report shall be in a format approved by the State Auditor, certified by the District's chief financial officer, and transmitted to the State Auditor annually no later than June 30.

4.3. Impact Fee Expenditures. The District may expend impact fees only for system improvements identified in the Facilities Plan and for the specific public facility type for which the fee was collected.

4.4. Time of Expenditure. Impact fees collected are to be expended, dedicated or encumbered for a permissible use within six years of receipt by the District, unless the Board directs otherwise. For purposes of this calculation, first funds received shall be deemed to be the first funds expended.

4.5. Extension of Time. The District may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing, before the expiration of the six-year period, (i) an extraordinary and compelling reason why the fees should be held longer than six years; and (ii) an absolute date by which the fees will be expended.

4.6. Refunds. The District shall refund any impact fees paid by a developer, plus interest actually earned, when (a) the developer does not proceed with the development activity and has filed a written request for a refund; (b) the fees have not been spent or encumbered; and (c) no impact has resulted.

SECTION 5: APPEAL PROCEDURES.

5.1. Application. The appeal procedures set forth herein apply both to challenges to the legality of impact fees of the District and to the interpretation and/or application of those fees.

5.2. Request for Information Concerning the Fee. Any person or entity required to pay or who has paid an impact fee under this Resolution may file a written request for information concerning the fee (the “**Request for Information**”) with the District. The District will provide the person or entity with the District's Impact Fee Analysis and other relevant information relating to the impact fee within fourteen (14) days after receipt of the written Request for Information.

5.3. Administrative Appeal.

- (a) Any person or entity that has paid an impact fee under this Resolution and wishes to administratively challenge the impact fee, shall file a notice of appeal with the District that contains:
 - (i) the appellant’s name, mailing address and daytime phone number;
 - (ii) a brief summary of the grounds for appeal; and
 - (iii) the relief sought.
- (b) The notice of appeal shall be filed as provided below:
 - (i) if the appellant is challenging the District’s compliance with the impact fee notice requirements, the notice of appeal must be filed within thirty (30) days after payment of the impact fee;
 - (ii) if the appellant is challenging compliance with other, non-notice, procedural impact fee requirements, the notice of appeal must be filed within one hundred and eighty (180) days after payment of the impact fee; and
 - (iii) if the appellant is challenging the impact fee itself, the notice of appeal must be filed within one year after payment of the impact fee.
- (c) The District shall make its final decision on the administrative appeal within thirty (30) days after the day on which the administrative

challenge to the impact fee is filed. Should the District, for any reason, fail to issue a final decision on an administrative appeal within thirty (30) days after the filing of the notice of appeal, the challenge shall be deemed to have been denied.

- (d) A person or entity is not required to exhaust these administrative remedies before filing an action in district court.

5.4. Judicial Review. Any person or entity that has paid an impact fee under this Resolution may petition the district court challenging the notice, procedure, or impact fee within the limitations period set forth in Utah Code §11-36a-702 or successor law. The deadline to file a petition in district court is tolled from the date that a challenge is filed using the administrative appeals process in Section 5.3 until thirty (30) days after the day on which a final administrative decision is rendered.

SECTION 6: SEVERABILITY.

If any section, subsection, paragraph, clause, or phrase of this Resolution shall be declared invalid for any reason, such decision shall not affect the remaining provisions of this Resolution, which shall remain in full force and effect, and for this purpose, the provisions of this Resolution are declared to be severable. In the event any section, subsection, paragraph, clause, or phrase of this Resolution conflicts with the Utah Impact Fees Act, the relevant provision of the Utah Impact Fees Act shall control.

SECTION 7: EXHIBITS.

All exhibits to this Resolution are hereby incorporated herein by reference and are made a part hereof as though fully set forth herein.

SECTION 8: EFFECTIVENESS.

This Resolution shall become effective ninety (90) days after the adoption hereof.

APPROVED AND ADOPTED this 22nd day of July, 2021.

ADMINISTRATIVE CONTROL BOARD
SNYDERVILLE BASIN SPECIAL
RECREATION DISTRICT



Ben Castro, Chair

APPROVED AS TO FORM:



David L. Thomas
Chief Civil Deputy