

**WILSON ARCH WATER AND SEWER SPECIAL SERVICE DISTRICT
WAWSSSD
RESOLUTION ADOPTING COMMUNITY SEWER IMPACT FEES
RESOLUTION No. 007.2023**

WHEREAS, the Impact Fees Act, Utah Code Ann. § 11-36a-101 *et. seq.* (the “Act”), outlines the procedures and requirements applicable to any “payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure”, which is defined in the Act as an “impact fee” (*Id.* § 11-36a-102(9));

WHEREAS, the Wilson Arch Water and Sewer Special Service District (“WAWSSSD”), as a special service district, is required to comply with applicable requirements of the Act;

WHEREAS, WAWSSSD serves a population of less than 5,000 and charges impact fees of less than \$250,000 annually and, consequently, is not required to comply with the Impact Fee Facilities Plan requirements of the Act, but has taken steps to ensure that the impact fees stated herein are based upon a reasonable plan that otherwise complies with the common law and the Act, as provided in Utah Code Ann. § 11-36a-301(3);

WHEREAS, WAWSSSD provides sanitary sewer (wastewater) services to 11 east side cottages to meet the additional demand created by development within WAWSSSD;

WHEREAS, the Act defines “public facilities” that may be included in an impact fee including “water rights and water supply, treatment, storage, and distribution facilities” and “wastewater collection and treatment facilities” that “have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision” such as the WAWSSSD (*Id.* § 11-36a-102(17));

WHEREAS, WAWSSSD provided written notices as required by the Act;

WHEREAS, new growth and development will be served, in part, by previously constructed/acquired public facilities as identified in WAWSSSD’s reasonable water and sewer infrastructure plans;

WHEREAS, a reasonable sewer plan and a Sewer Impact Fee Analysis (which Analyses analyze the impact fees the District proposes to adopt), have been prepared by WAWSSSD personnel and a consultant in accordance with the requirements of the Act;

WHEREAS, a copy of this Impact Fee Resolution has been available for public inspection at the Monticello public library and from WAWSSSD personnel and on the state public notice website for at least fourteen days prior to the public hearing and copies of the reasonable plans, each Impact Fee Analysis, and a summary of each Analysis, have been available for public inspection for at least ten days prior to the public hearing at the Monticello public library, from WAWSSSD personnel, and on the Utah Public Notice Website, the statutorily required notice of a public hearing regarding this Resolution has been given, and a

hearing has been held to receive public comments on the water and sewer plans and the Impact Fee Resolution as required by the Act and by Utah Code Ann. § 17B-1-111;

WHEREAS, pursuant to the requirements of the Act, the WAWSSSD Administrative Control Board (the “Board”) desire to establish a service area and adopt this Impact Fee Resolution to establish water and sewer impact fees to be charged by WAWSSSD; and

WHEREAS, WAWSSSD expects those wishing to connect to WAWSSSD’s water system and/or sanitary sewer system to pay the amounts mandated by this Resolution, in addition to satisfying other applicable requirements, as a condition to being allowed to connect to WAWSSSD’s water system and/or sanitary sewer main line and to receive water service and/or sanitary sewer service from WAWSSSD;

NOW, THEREFORE, BE IT RESOLVED by the WAWSSSD Board that WAWSSSD, including subsequently annexed areas, be and is a single service area as allowed by Utah Code Ann. § 11-36a-102(20)(b) and the impact fees adopted by this Resolution shall be applied to east side cottage lots of the community septic system of the WAWSSSD.

BE IT FURTHER RESOLVED, that each of the reasonable plans (water and sewer), to the extent not previously adopted, be and are adopted and approved.

BE IT FURTHER RESOLVED, future public facilities that will serve new growth and development within east side cottage community septic system WAWSSSD shall be and are included in the applicable impact fees.

BE IT FURTHER RESOLVED, that the WAWSSSD’s sanitary sewer impact fees (sometimes referred to herein as “**impact fees**” or “**impact fee**”) shall be as set forth in **Exhibit "A"**, respectively, attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED, that WAWSSSD shall have the right to adjust the standard impact fee that would otherwise be applicable to respond to (i) unusual circumstances in specific cases or (ii) a request for a prompt 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 to ensure that WAWSSSD’s impact fees are imposed fairly. The impact fee may be adjusted, under appropriate circumstances, based upon studies and data submitted by the developer. Any adjustment may be either upward or downward, depending upon the circumstances and equities.

BE IT FURTHER RESOLVED, that a developer, including a school district or a charter school, may receive a credit against or a proportionate reimbursement of an impact fee if the developer: (i) dedicates land for a system improvement; (ii) builds and dedicates some or all of a system improvement; or (iii) dedicates a public facility that WAWSSSD and the developer agree will reduce the need for a system improvement. Furthermore, a credit against impact fees is required for any dedication of land for, improvement to, or new construction of, any system improvement (as defined in the Act) provided by the developer if the facility (i) is a system improvement; or (ii) is both dedicated to the public and offsets the need for an identified system improvement. Otherwise, no credit will be allowed to a developer for improvements provided

by the developer. Should the credit exceed the impact fee that would otherwise be paid by the developer, WAWSSSD and the developer may enter into a written contract specifying how and when the reimbursement will be paid to the developer.

BE IT FURTHER RESOLVED, that a developer and WAWSSSD, acting through its Board, may by contract agree to impact fees other than those set forth in or calculated in accordance with this Resolution.

BE IT FURTHER RESOLVED, that the impact fees set forth in and established by this Resolution shall be and are in addition to other fees, charges and/or exactions lawfully imposed by WAWSSSD.

BE IT FURTHER RESOLVED that, unless WAWSSSD is otherwise bound by a contractual requirement, the applicable wastewater (sanitary sewer) facilities impact fee shall be determined from the applicable fee schedule and /or formula in effect at the time of payment and shall not be determined at the time a request for an estimate is received by WAWSSSD. There shall be no guarantee that any quoted impact fee, either oral or in writing, will be in effect when the developer or other person actually makes the impact fee payment.

BE IT FURTHER RESOLVED that, should the ultimate density of any development activity exceed the density upon which the impact fees were based and/or should the impact fees not initially be charged against all units or the total density within the development, WAWSSSD may charge additional impact fees to the developer or other appropriate person covering the density for which an impact fee was not previously paid, including buildings and lots which have already been connected to WAWSSSD's culinary water and/or sanitary sewer systems.

BE IT FURTHER RESOLVED, that all or part of any impact fee may be waived or reduced (an "exemption") for those developments which are deemed to serve a broad public purpose that would be harmed by WAWSSSD requiring full payment of applicable impact fees, such as low income housing projects, as determined by WAWSSSD Board. Such exceptions shall be handled in accordance with the provisions of the Act and any Impact Fee Policy established by WAWSSSD. In the event of any such impact fee exemption, the revenue shortfall to WAWSSSD may be made up from any other available revenue source, including loans and operating revenues (including property taxes) provided, however, that it will not be necessary for WAWSSSD to establish any source of funds, other than impact fees, to pay for any low income housing development activity, as provided in Utah Code Ann. § 11-36a-403(1). Should WAWSSSD elect to allow an impact fee exemption for development activity attributable to a school district or a charter school, either a school district or a charter school shall qualify for the exemption on the same basis.

BE IT FURTHER RESOLVED, that existing connections be and are exempt from the imposition of impact fees to the extent of the existing, authorized use, provided that the connection has been active and a water bill and/or a sewer service bill has been paid within the past three years.

BE IT FURTHER RESOLVED, that all resolutions, policies, procedures, impact fees, rules and regulations, and other actions by the WAWSSSD Board, or parts thereof, in conflict

with this Resolution and/or the attached Exhibits are, to the extent of such conflict, hereby repealed.

BE IT FURTHER RESOLVED, in accordance with Utah Code Ann. § 11-36a-401(2), that this Resolution shall take effect immediately upon its passage, with the new impact fees to take effect 90 days thereafter.

Passed by the Administrative Control Board of the Wilson Arch Water and Sewer Special Service District this __ day of January, 2023.

Eric Linscheid, Chair

Attest:

Doug Gorman, Clerk

EXHIBIT “A”
Schedule of East side community Sewer
Impact Fees
(to be attached)

The impact fee will be \$1500 per ERC, to be paid at the time of a unit applying for a building permit.