



HIGHLAND CITY

HIGHLAND CITY COUNCIL AGENDA

Tuesday, May 16, 2023

Highland City Council Chambers, 5400 West Civic Center Drive, Highland Utah 84003

VIRTUAL PARTICIPATION



YouTube Live: <http://bit.ly/HC-youtube>



Email comments prior to meeting: council@highlandcity.org

6:00 PM WORK SESSION – LONG -TERM FINANCIAL OBLIGATIONS

7:00 PM REGULAR SESSION

Call to Order – Mayor Kurt Ostler

Invocation – Mayor Kurt Ostler

Pledge of Allegiance – Council Member Kim Rodela

1. UNSCHEDULED PUBLIC APPEARANCES

Please limit comments to three minutes per person. Please state your name.

2. CONSENT ITEMS (7:10 pm – 5 min)

Items on the consent agenda are of a routine nature or have been previously studied by the City Council. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

- a. [Approval of Meeting Minutes](#) General City Management – Stephannie Cottle, City Recorder

City Council Work Session – March 30, 2023

- b. [ACTION: Final Plat - Ridgeview Plat K](#) Land Use (Administrative) - Kellie Smith, Planner & GIS Analyst

The City Council will consider a request by Ivory Development LLC for final plat approval of a 17-lot subdivision located at approximately Elmfield Way and Willowbank Drive. The City Council will take appropriate action.

3. [PUBLIC HEARING/ORDINANCE: PARK IMPACT FEE](#) General City Management – Tyler Bahr, Finance Director (7:15 pm – 10 min)

The City Council will hold a public hearing and consider adoption of amended park impact fees. The Council will take appropriate action.

4. [PUBLIC HEARING/ORDINANCE: TEXT AMENDMENT - FENCES](#) Development Code Update (Legislative) – Kellie Smith, Planner & GIS Analyst (7:25 pm – 15 min)

The City Council will continue and complete a public hearing to consider a proposal by Highland City Staff to amend Chapter 3-612 Fences, Retaining Walls, Theme and Screen Walls in the Development Code relating to municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors. The City Council will take appropriate action.

5. RESOLUTION: PERSONNEL POLICY UPDATE CONCERNING EMPLOYEES SERVING AS ELECTED OFFICIALS *General City Management - Jay Baughman, Assistant City Administrator and Community Development Director (7:40 pm - 5 min)*

The City Council will hold a public meeting to consider amendments to the personnel policies concerning a Highland City employee running for and being elected to the position of a Highland City elected office. The Council will take appropriate action.

6. EXPEDITED

a. PUBLIC HEARING/ORDINANCE: Text Amendment - Storm Drainage Development Code Update (Legislative) *- Kellie Smith, Planner & GIS Analyst (7:45 pm - 10 min)*

The City Council will continue and complete a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way. The City Council will take appropriate action.

b. ORDINANCE: City Records Code Update *General City Management (Legislative) - Rob Patterson, City Attorney (7:55 pm - 10 min)*

The City Council will consider an amendment to the Highland City Municipal Code Title 2, Chapter 28, City Records. The Council will take appropriate action.

7. MAYOR/COUNCIL AND STAFF COMMUNICATION ITEMS

The City Council may discuss and receive updates on City events, projects, and issues from the Mayor, City Council members, and city staff. Topics discussed will be informational only. No final action will be taken on communication items.

a. Flooding Update *- Ernie John, North Utah County Water Coordinator (8:05 pm - 15 min)*

b. Magnolia Estates Development Agreement *- Andy Spencer, City Engineer/Public Works Director (8:20 pm - 15 min)*

c. Fiber Next Steps *- Rob Patterson, City Attorney & Jay Baughman, Assistant City Administrator/Community Development Director (8:35 pm - 15 min)*

d. Sensitive Lands Development Ordinance *- Rob Patterson, City Attorney (8:50 pm - 10 min)*

e. 5th 5th Local Option *- Kurt Ostler, Mayor (9:00 pm - 10 min)*

f. Financial Report for March *- Tyler Bahr, Finance Director (9:10 pm - 5 min)*

g. Alpine Food Storage Update *- Kurt Ostler, Mayor (9:15 pm - 5 min)*

h. Future Meetings

- May 17, Community Budget Meeting, 7:00 pm, City Hall
- May 23, Planning Commission Meeting, 7:00 pm, City Hall
- June 6, City Council Meeting, 7:00 pm, City Hall
- June 14, Lone Peak Public Safety District Board Meeting, 7:30 am, City Hall
- June 20, City Council Meeting, 7:00 pm, City Hall
- June 27, Planning Commission Meeting, 7:00 pm, City Hall

9. CLOSED SESSION

The City Council may recess to convene in a closed session to discuss items, as provided by Utah Code Annotated §52-4-205.

ADJOURNMENT

In accordance with Americans with Disabilities Act, Highland City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at (801) 772-4505 at least three days in advance of the meeting.

ELECTRONIC PARTICIPATION

Members of the City Council may participate electronically during this meeting.

CERTIFICATE OF POSTING

I, Stephannie Cottle, the duly appointed City Recorder, certify that the foregoing agenda was posted at the principal office of the public body, on the Utah State website (<http://pmn.utah.gov>), and on Highland City's website (www.highlandcity.org).

Please note the order of agenda items are subject to change in order to accommodate the needs of the City Council, staff and the public.

Posted and dated this agenda on the 11th day of May, 2023.

Stephannie Cottle, CMC, City Recorder

THE PUBLIC IS INVITED TO PARTICIPATE IN ALL CITY COUNCIL MEETINGS.



HIGHLAND CITY

HIGHLAND CITY COUNCIL WORK SESSION MINUTES

Tuesday, March 30, 2023

Waiting Formal Approval

Highland City Council Chambers, 5400 West Civic Center Drive, Highland Utah 84003

VIRTUAL PARTICIPATION

 YouTube Live: <http://bit.ly/HC-youtube>

 Email comments prior to meeting: council@highlandcity.org

7:00 PM WORK SESSION

Call to Order – Mayor Kurt Ostler

The meeting was called to order by Mayor Kurt Ostler as a work session at 7:08 pm. The meeting agenda was posted on the *Utah State Public Meeting Website* at least 24 hours prior to the meeting.

PRESIDING: Mayor Kurt Ostler

COUNCIL MEMBERS

PRESENT: Brittney P. Bills, Timothy A. Ball, Kim Rodela, Sarah D. Petersen, Scott L. Smith

CITY STAFF PRESENT: City Administrator Erin Wells, City Recorder Stephannie Cottle, City Engineer/Public Works Director Andy Spencer

OTHERS PRESENT: Jon Hart, Roger Timmerman, Athina Riddell, Jon Hagen

1. FISCAL YEAR 2024 BUDGET

The City Council will discuss the budget for fiscal year 2024. No formal action will be taken.

City Administrator Wells provided an introduction for the budget discussion; the purpose of tonight's meeting is to provide a high-level introduction to the Mayor's tentative budget and answer initial questions in preparation for detailed one-on-one meetings in April at each Councilmember's discretion, followed by full Council discussion during the April 24 work session meeting.

Financial Director Bahr provided an overview of revenue projections, beginning with sales tax revenue. In fiscal year (FY) 2022, the City received \$3.6 million in sales tax revenue and budgeted \$3.6 million in FY 2023. FY 2023 revenues are tracking at 9.3 percent higher than the same time frame in FY 2022. This information, along with the understanding of the average annual growth of 7.5 percent per year for the last 20 years, has been used to arrive at a revenue projection for the FY 2024 budget of \$4.3 million. However, the Mayor and City Administration has chosen to be conservative with its projection and have included a \$4 million estimate in the

budget document. Mr. Bahr then discussed property tax revenue; he is anticipating \$100,000 more in FY2024 based upon building permits that have been pulled through calendar year (CY) 2022. Relative to impact fees, FY 2023 revenue is significantly lower than anticipated for most impact fees and, therefore, the impact fee revenue estimate included in the FY24 budget is 50 percent less than that of the 12-month period ending December 2022.

Council Member Smith inquired as to the average impact fee revenue each year. Mr. Bahr stated the City averages 100 to 150 building permits issued per year, but impact fee revenues are typically estimated on the high end and while there is not a dramatic decrease in the number of permits pulled, the types of permits being issued have impacted revenues.

Mr. Bahr then discussed the pressurized irrigation (PI) bond payment transfer; the FY 2021 and 2022 budgets included transfers from the General Fund for the PI bond payments totaling \$841,000. Audits performed for the City resulted in the redirection of the payments to come from the PI fund, but the General Fund transfers were not 'unwound'; the auditor has confirmed that there is \$841,447 available for transfer back to the General Fund for one-time use.

Ms. Wells then reviewed the expenses in the tentative budget; Administration has assembled a spreadsheet illustrating Council budget priorities as determined by a ranking exercise performed by the City Council in January. She briefly discussed each item on the list and discussed the scope of various projects, concluding the total cost of all priorities is \$1,680,554. There was brief discussion among the Council regarding the timing of a few of the projects listed on the document, including the creation of a building development fund. Ms. Wells then discussed the expenses included in the budget document associated with staff wage increases; Administration has considered several different metrics upon which to base the proposed wage increase, including inflation of the following:

- Social security: 8.70 percent;
- Western Consumer Price Index (CPI): 8.01 percent;
- Utah Retirement Systems (URS) Cost of Living Adjustment (COLA): 8 percent;
- Highland Median Income: 6.81 percent;
- Utah County Median Income: 7.57 percent;
- Utah Personal Income: 4.70 percent;
- Mountain Plains Employment Cost Index: 5.20 percent.

Administration also reviewed wage increases from local municipalities, and determined the average COLA being offered is 5.1 percent and the average merit increase being offered is 2.9 percent. Based upon this information, the Mayor has suggested a three percent merit increase for Highland employees and funding a market study at the cost of \$6,000. Nothing has been budgeted for market adjustments in the FY 2024 budget. Mayor Ostler emphasized that he values all City employees and the service they provide to the community; he has included a conservative wage increase in the budget because he is concerned that taxpayers are already feeling the pain of inflation and a higher wage increase for City employees could result in a tax increase. He added that taxpayers are also not experiencing significant wage increases based upon data from the Bureau of Labor Statistics. He noted that there may be a few positions that warrant more than a three percent increase, but those can be considered on a case-by-case basis.

Council Member Smith asked who will be performing the market study if it is funded. Ms. Wells stated that the City has utilized Mike Swallow in the past and she would recommend using him again. Council Member Smith asked if the result of the proposal is to adjust the FY 2024 budget based upon the results of the market study. Ms. Wells stated she does not believe the study could be completed in time to inform the FY 2024 budget, but she would recommend the Council include some money in the budget to allow for reaction to the market study. This led to high level discussion and debate among the Council, Mayor, and staff regarding the proper philosophy for

the City to embrace relating to employee wages; this included review of the total compensation value for City employees, which includes retirement contributions and the City's coverage of benefit costs. Ms. Wells stated that the City is definitely competitive in terms of total compensation value, but many employees are more focused on hourly or salary wages rather than total compensation. The Council ultimately concluded to proceed with a quick market study and to include some funding in the budget to allow the City to react to the market study.

Ms. Wells then continued her review of the Council priorities handout, with a brief focus on the dog park project and increased funding for trail maintenance and expansion. She then moved to page two of the handout, which included information on significant items included in the FY 2024 budget, broken down into categories of ongoing projects, line item increases of more than \$10,000 when compared to the previous budget year, and discretionary requests. There was also a category containing budget items for consideration that have not been included in the tentative budget. Ms. Wells invited staff members to provide input about certain budget items included in their respective Department budgets and there was a brief focus on various items, such as funding for seasonal positions; the City's portion of safe routes to school grant; replacement snow plow blades; the library carpet replacement, snowplow and auxiliary equipment purchase; additional community garden boxes; American Fork Chamber membership; Heritage Park Christmas lights; and renewal of the Legislative Consultant contract. Ms. Wells asked that the Council consider the items included on this list in preparation for providing Administration with direction in the next budget work session.

Ms. Wells then discussed pages three and four of the budget handout; page three addressed FY 2024 summarized net revenue and expenses and page four provided a fund analysis for the City. She suggested that the two pages be considered in conjunction with one another in preparation for the next budget work session. She highlighted \$1.29 million in large one-time projects in the General Fund:

- \$1.29 million in large one-time projects
 - \$950,000 – Parks Maintenance Building
 - \$100,000 – Safe Routes to School Grant
 - \$240,000 – Snowplow Purchase

There is also \$227,000 in projected net revenue in the General Fund. Relative to the Capital Improvement Building Fund, the FY23 estimated ending balance does not include \$825,000 less in expected expenses for the Parks Maintenance Building and construction delays; the FY 2023 estimated balance has been updated to \$1.6 million. In the Culinary Water Fund, the FY 2023 estimated ending balance does not include \$1 million in grant revenue and \$500,000 in grant projected expenses. The FY 2023 estimated ending balance has been updated to \$1.8 million. The PI fund balance does not include \$2 million in grant revenue and \$2 million less in expected expenses due to construction delays. The FY 2023 estimated ending balance for the PI fund has been updated to \$4.26 million. She concluded by discussing the Building and Development Fund, providing the following information:

- Created in FY2024 as per direction from State Auditor to better track the collection & use of building-related revenues.
- FY2022 ended with \$543,000 in net building-related revenue after all applicable expenses.
- FY2023 – TBD
 - Revenue thru Feb = \$532,000 of \$729,000 budgeted
- FY2024 estimated to use \$308K of fund balance.

Mayor Ostler advised the Council to carefully review the tentative budget document prior to the next work session meeting; it is important to identify budget priorities, but also keep in mind the potential impact that funding all priorities will have on the taxpayers. The Council thanked Ms. Wells for the documents Administration has prepared for this meeting. Council Member Smith also thanked Mayor Ostler for his efforts to develop the tentative budget for Council consideration. Mayor Ostler stated he has worked closely with Mr. Bahr and Ms. Wells; the development of the budget is a collective effort.

Council Member Smith noted that the salaries for the Mayor and City Council were decreased several years ago and have not been adjusted since; he believes it would be valuable to review the salaries in an effort to entice people to run for office. The Council briefly discussed the concept and suggested that elected official positions be included in the market study that will be performed for other positions in the City.

ADJOURNMENT

Council Member Scott L. Smith MOVED to adjourn the work session and Council Member Tim Ball SECONDED the motion. All voted in favor and the motion passed unanimously.

The meeting adjourned at 9:10 pm.

I, Stephannie Cottle, City Recorder of Highland City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on March 30, 2023. This document constitutes the official minutes for the Highland City Council Meeting.

Stephannie Cottle, CMC
City Recorder



CITY COUNCIL AGENDA REPORT

ITEM #2b

DATE: May 16, 2023
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **ACTION:** Final Plat – Ridgeview Plat K
TYPE: **LAND USE (ADMINISTRATIVE)**

PURPOSE:

The City Council will consider a request by Ivory Development LLC for final plat approval of a 17-lot subdivision located at approximately Elmfield Way and Willowbank Drive. The City Council will take appropriate action.

PRIOR COUNCIL DIRECTION:

On May 21, 2019, the property was rezoned as a Planned Development (PD) district. In the PD Narrative, this property was designated as cottage lots with a minimum density of 4 units per acre, and a maximum of 10 units per acre.

On November 9, 2021, the City Council approved the preliminary plat for Pod B subject to nine stipulations. The preliminary plat included a total of 424 residential units, two roads (Featherstone Drive and Dorado Way), and the park. Plat K is within Pod B.

STAFF RECOMMENDATION:

Staff recommends the City Council accept the findings, and **APPROVE** the proposed final plat with the following stipulations:

1. The recorded plat shall be in substantial conformance with the final plat received May 2, 2023, except as modified by these stipulations.
2. The final plat and final civil engineering plans shall be reviewed and approved by the City Engineer prior to recordation.
3. All required public improvements shall be installed as required by the City Engineer and shown on the approved construction plans.
4. A note be added to the plat relating to the 10' storm drainage easement on lots 451-456 and 461-466 that the owner agrees to indemnify and hold Highland City harmless from any and all damage or loss caused by the drainage and private sumps on the lots, regardless of whether such damage or loss is within the lots in the plat. The City Attorney will draft the language to be put on the plat.
5. The portion of the 20' waterline easement on N Willowbank Drive be vacated. The applicant will provide the legal description for this portion of the easement and is responsible for recording the vacation of the easement prior to or at the time of the plat recording.

BACKGROUND:

The property is approximately 5.94 acres and is designated as Estate Lots and Cottage Lots in the Ridgeview PD Zoning District.

SUMMARY OF THE REQUEST:

1. The applicant is requesting final plat approval of sixteen (16) estate lots and one (1) cottage lot located at Elmfield Way and Willowbank Drive.
2. Drive and utility access to the site will be from Willowbank Drive. There are three (3) other accesses to the site that will be completed with future Ridgeview phases.
3. Rather than having the lots graded to have drainage be directed to the right-of-way, the applicant is requesting to have privately owned and maintained storm water facilities and private drainage easements associated with them. A stipulation has been added to add additional wording on the plat to protect the City from any future liability for the privately owned and maintained drainage facilities.

STAFF REVIEW/FINDINGS:

With the proposed stipulations, the final plat meets the following findings:

- The final plat in substantial conformance with the preliminary plat approved by the City Council on November 9, 2021.
- The final plat is consistent with the General Plan.
- The final plat is compliant with the Ridgeview PD Zoning District.

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

MOTION TO APPROVE:

I move that the City Council accept the findings and **APPROVE** the final plat for the Ridgeview Plat K subdivision subject to the five (5) stipulations recommended by Staff.

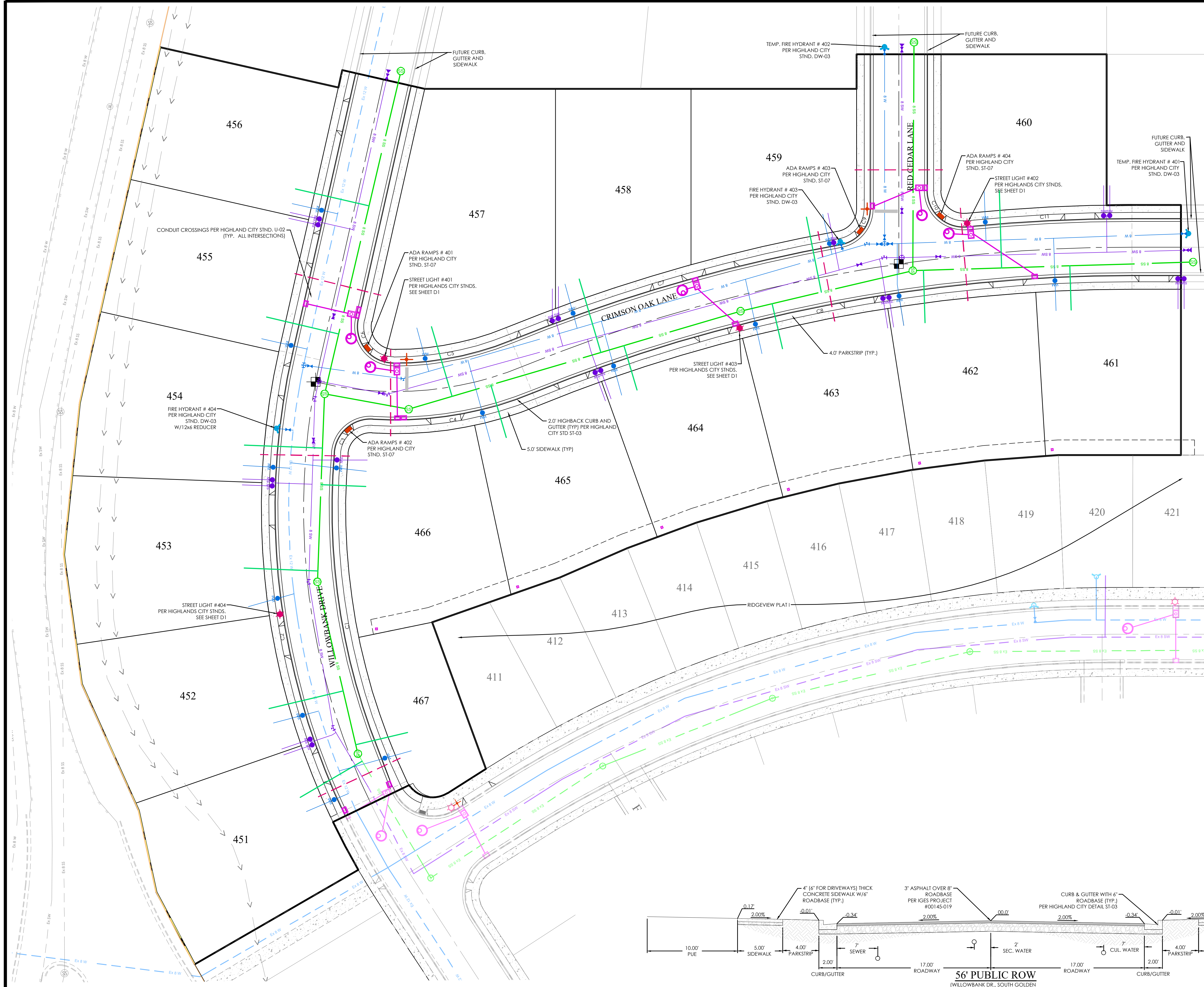
ATTACHMENTS:

1. Vicinity Map
2. Proposed Final Plat
3. Utility Plan



VICINITY MAP

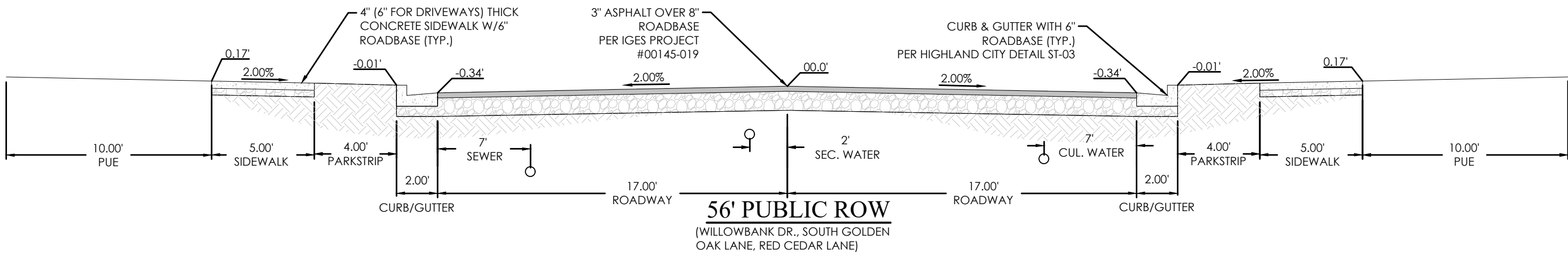
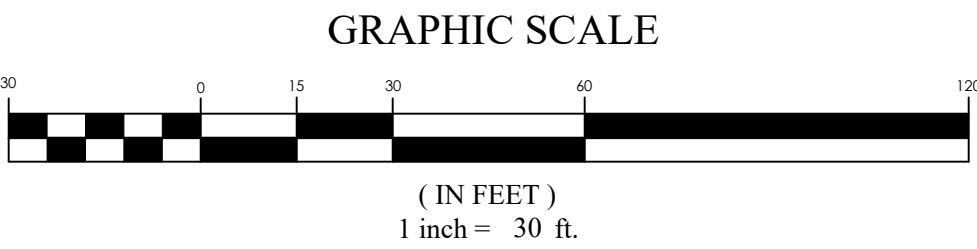
NTS



LEGEND

[Symbol]	BOUNDARY
[Symbol]	ROW
[Symbol]	CENTERLINE
[Symbol]	LOT LINE
[Symbol]	EASEMENT
[Symbol]	15" STORM DRAIN
[Symbol]	8" SANITARY SEWER
[Symbol]	8" CULINARY WATER
[Symbol]	8" SECONDARY WATER
[Symbol]	SWALE
[Symbol]	CONTOUR MAJOR
[Symbol]	CONTOUR MINOR
[Symbol]	EXIST. STORM DRAIN
[Symbol]	EXIST. SANITARY SEWER
[Symbol]	EXIST. CULINARY WATER
[Symbol]	EXIST. FENCE
[Symbol]	EXIST. CONTOUR MAJOR
[Symbol]	EXIST. CONTOUR MINOR
[Symbol]	SIGN
[Symbol]	STREET LIGHT
[Symbol]	SD MH, INLET, AND COMBO
[Symbol]	SEWER MANHOLE
[Symbol]	CULINARY VALVE, TEE & BEND
[Symbol]	SECONDARY VALVE, TEE & BEND
[Symbol]	SEC. AND CUL. WATER METER
[Symbol]	WATER BLOW-OFF
[Symbol]	FIRE HYDRANT
[Symbol]	STREET MONUMENT (TO BE SET)
[Symbol]	EXIST. STREET MONUMENT
[Symbol]	EXIST. SD INLET & MH
[Symbol]	EXIST. SEWER MH
[Symbol]	EXIST. VALVE, TEE, & BEND
[Symbol]	EXIST. FIRE HYDRANT
[Symbol]	SPOT ELEVATION
[Symbol]	HIGHLAND CITY CONDUIT

Curve Table					
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD DIRECTION
C1	201.73'	431.00'	26°49'05"	102.75'	N08°23'44"W
C2	314.95'	469.00'	38°28'34"	143.67'	N06°31'09"W
C3	37.10'	24.00'	88°34'05"	23.41'	N49°17'51"E
C4	108.43'	241.00'	25°46'43"	55.15'	N80°41'31"E
C5	79.81'	203.00'	22°31'33"	40.43'	S79°03'56"W
C6	42.89'	24.00'	102°23'26"	29.84'	N38°28'35"W
C7	228.17'	1091.00'	11°58'57"	114.50'	S73°47'38"W
C8	407.95'	1053.00'	22°11'51"	206.57'	N78°54'05"E
C9	33.42'	24.00'	79°47'06"	20.06'	S39°53'34"W
C10	40.11'	24.00'	95°45'05"	26.54'	N47°52'32"W
C11	109.51'	1091.00'	5°45'05"	54.80'	S87°07'28"W



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FOR REVIEW ONLY

RIDGEVIEW PLAT K
HIGHLAND, UTAH
SITE PLAN

REVISION BLOCK	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		

SITE PLAN

Scale: 1"=30'
Date: 04/20/23
Sheet: C3

Drawn: CSA
Job #: 22-0013

811
Know what's below.
Call 811 before you dig.



CITY COUNCIL AGENDA REPORT

ITEM #3

DATE: May 16, 2023
TO: Honorable Mayor and Members of the City Council
FROM: Tyler Bahr, Finance Director
SUBJECT: PUBLIC HEARING/ORDINANCE: Park Impact Fee
TYPE: GENERAL CITY MANAGEMENT

PURPOSE:

The City Council will hold a public hearing and consider adoption of amended park impact fees. The Council will take appropriate action.

STAFF RECOMMENDATION:

Staff recommends the City Council hold a public hearing and approve the ordinance adopting an amendment to an impact fee facilities plan and impact fees analysis and imposing impact fees for parks.

PRIOR COUNCIL DIRECTION:

On August 16, 2022, Council approved a contract with Lewis, Young, Robertson & Burningham, Inc. (LYRB) to assess park impact fee revenue and revenue sufficiency to address the remaining balance of the Park Bond and future development. On May 2, 2023, LYRB presented the draft amendment to City Council. Council did not indicate any concerns with the analysis and draft update.

BACKGROUND:

In 2020, LYRB performed a review of the City's impact fees. As a result of this review, park impact fees were set at \$5,854 per single-family residence. Park impact fee revenue collected since then has been dedicated entirely to new development's buy-in to existing park facilities that have previously been funded through a bond, the general fund, and other sources.

In addition to repayment of the Park Bond, impact fee revenue may also go towards other investments in park infrastructure. The purpose of the proposed Park Impact Fee Amendment was to validate and/or revise the fee purpose and amount given recent development activity to include future park investments in addition to buy-in to existing facilities.

The following fees are proposed in the Amendment:

Park Impact Fee	Existing	Proposed	% Change
Single Family	\$5,854	\$6,301	8%
Multi-family	\$4,804	\$4,904	2%

FISCAL IMPACT:

The amount of revenue collected in park impact fees is dependent on the volume and type of development activity. The FY2024 Tentative Budget approved by the Council on May 2 projects \$400,000 in park impact fees.

MOTION TO APPROVE:

I move that City Council approve the ordinance adopting an amendment to an impact fee facilities plan and impact fees analysis and imposing impact fees for parks and recreation.

ATTACHMENTS:

1. Impact Fee Ordinance, 2023 Amendment, 2020 IFPP & IFA, Impact Fee Ordinance

Impact Fee Summary

The proposed impact fee enactment updates the previous impact fee analysis with current estimates for City population and park needs. The enactment also changes the method by which impact fees are calculated in order for the city to ensure that new development pays its fair share of the cost of maintaining the City's current level of service for park and recreation facilities, based on the City's investment in those facilities. Additional park facilities are included within the facilities that may be funded by the park impact fees. The proposed change in parks and recreation impact fee is an 8% increase for new single-family homes (\$5,854 to \$6,301) and a 2% increase for multi-family homes (\$4,804 to \$4,904).

AMENDMENT TO THE 2020 IMPACT FEE FACILITIES PLAN (IFFP) AND IMPACT FEE ANALYSIS (IFA)

PARKS & RECREATION

HIGHLAND CITY, UT

MARCH 2023



PREPARED BY LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.

AMENDMENT CERTIFICATION

IFFP AMENDMENT CERTIFICATION

Lewis Young Robertson & Burningham, Inc. and Highland City jointly certify that the Impact Fee Facilities Plan ("IFFP") amendment prepared for parks and recreation services:

1. includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. Does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and
3. Complies in each and every relevant respect with the Impact Fees Act.

LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.
HIGHLAND CITY

IFA AMENDMENT CERTIFICATION

Lewis Young Robertson & Burningham, Inc. certifies that this amendment to the Impact Fee Analysis ("IFA") prepared for parks and recreation services:

1. Includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. Does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. Offsets costs with grants or other alternate sources of payment; and
4. Complies in each and every relevant respect with the Impact Fees Act.

Lewis Young Robertson & Burningham, Inc. makes this certification with the following caveats:

1. All of the recommendations for implementation of the IFFP made in the IFFP documents or in the IFA documents are followed by City Staff and elected officials.
2. If all or a portion of the IFFP or IFA are modified or amended, this certification is no longer valid.
3. All information provided to LYRB is assumed to be correct, complete, and accurate. This includes information provided by the City as well as outside sources.

LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.

SECTION I: IFA AMENDMENT

Lewis Young Robertson & Burningham, Inc., (“LYRB”) was retained by Highland City (“City”) to provide an amendment (the “Amendment”) to the Parks and Recreation Impact Fee Analysis completed in 2020 (the “2020 Analysis”). This Amendment document details the updates that have been made to the 2020 Analysis. This Amendment does not replace the previous 2020 Analysis.

SUMMARY

The Impact Fees Act requires that this analysis include a summary designed to be understood by a lay person.¹ In summary, the impact fee adopted in 2020 for parks and recreation is being amended to account for changes in population, amend the existing facilities inventory, and remove the buy-in component to the impact fee. The amendment also modifies the impact fee methodology to reflect a level of investment approach and 2020 Census demographics.

UPDATES TO THE PARKS AND RECREATION ANALYSIS

REVISED ASSUMPTIONS

The primary demand unit related to the 2020 Analysis is population growth. The population used in this Amendment is 22,630 and assumes the population within the planning window will reach 27,586 in 2033, or an increase of approximately **4,956** residents. In addition, the City’s existing inventory for parks and recreation was updated as shown in **APPENDIX A**. The city-owned acreage and estimated total improvement value will be the basis for the level of investment (“LOI”) calculation that will be discussed in the next section.

REVISED - TABLE 8.1: PROJECTED
GROWTH IN DEMAND UNITS

YEAR	POPULATION
2023	22,630
2024	23,083
2025	23,545
2026	24,016
2027	24,496
2028	24,986
2029	25,486
2030	25,995
2031	26,515
2032	27,045
2033	27,586

REVISED - TABLE 8.2: EXISTING FACILITIES INVENTORY

PARK TYPE	TOTAL ACREAGE	LOS PER 1,000 CAPITA
Total	238.62	7.45

REVISED - TABLE 8.4: LEVEL OF INVESTMENT DETERMINATION

PARK TYPE	CITY OWNED ACREAGE	EST. LAND VALUE	LAND VALUE PER ACRE	EST. IMPROV. VALUE	IMP. VALUE PER ACRE	TOTAL VALUE
Total	168.62	\$16,862,088	\$100,000	\$16,727,992	\$99,205	\$199,205
Per Capita	0.01	\$745	\$4	\$739	\$4	\$1,484

GROWTH-DRIVEN APPROACH & REMOVAL OF BUY-IN COMPONENT

The City has one outstanding debt issue that is considered in the 2020 Analysis as buy-in. The City has sufficient revenues to defease the outstanding debt. As a result, this Amendment removes the buy-in component and modifies the impact fee methodology by leveraging a LOI approach. The LOI approach utilizes the existing level of service (“LOS”) and perpetuates that LOS into the future. Under this methodology, impact fees are calculated to ensure new development provides sufficient investment to maintain the current LOS standards in the community.

FUTURE CAPITAL FACILITIES ANALYSIS

Future planning for parks and public lands is an ongoing process based on the changes in population and community preference. The City will purchase and improve parks and public lands to maintain the LOS defined in this document. Actual future improvements will be determined as development occurs and the opportunity to acquire and improve park land arises. Impact fees will only be assessed to maintain the existing LOS.

The analysis of impact fee eligible costs above is further refined based on the expected changes in population over the planning horizon and the existing LOS. Based on the expected growth of 4,956 people, the table below illustrates the City will need to

¹ See Utah Code 11-36a-502 & 504

invest an estimate of \$7.4 million in parks, recreation, open space, and trail facilities (including amenities) to maintain the proposed LOS. The City may invest at a higher level; however, impact fees cannot be used to increase the existing LOS.

NEW TABLE: FUTURE LEVEL OF INVESTMENT

TYPE OF IMPROVEMENT	UNIT OF MEASURE	POPULATION INCREASE IFFP HORIZON	TOTAL VALUE PER CAPITA	ESTIMATED FUTURE INVESTMENT
Total Facilities	Per Capita	4,956	\$1,484	\$7,356,040

Future investment will be used to acquire additional parks and recreation land, fund new park improvements and amenities, and/or make improvements to existing park facilities to add capacity to the system. The following types of improvements may be considered:

☞ Land Acquisition	☞ Trailways/Walkways	☞ Field Lighting
☞ Sod and Irrigation Improvements	☞ Volleyball Courts	☞ Concession/Buildings
☞ Pavilions	☞ Tennis Courts	☞ Parking
☞ Restrooms and other Parks and Recreation Buildings	☞ Basketball Courts	☞ Skate Parks
☞ Picnic Tables	☞ Other Recreational Courts and Facilities	☞ Other Park and Recreation Amenities
☞ Playgrounds	☞ Baseball/Softball Field Facilities	
	☞ Multi-Purpose Fields	

AMENDED IMPACT FEE CALCULATION

Based on the above updates, the impact fee for parks and recreation has been amended as follows:

REVISED - TABLE 8.6: ESTIMATE OF IMPACT FEE VALUE PER CAPITA

TYPE OF IMPROVEMENT	VALUE PER CAPITA
Parks and Recreation	\$1,484
Buy-In	\$0
Impact Fee Analysis	\$2
Estimate of Impact Fee Per Capita	\$1,486

REVISED - TABLE 8.7: PARK IMPACT FEE SCHEDULE

IMPACT FEE PER HH	PERSONS PER HH*	PROPOSED FEE PER HH	EXISTING FEE PER HH	% CHANGE
Single Family	4.24	\$6,301	\$5,854	8%
Multi-Family	3.30	\$4,904	\$4,804	2%

*Adjusted based on 2020 Census ACS demographics.

NON-STANDARD IMPACT FEE

The City reserves the right under the Impact Fees Act² to assess an adjusted fee that more closely matches the true impact that the land use will have upon the system. This adjustment could result in a lower impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. The formula for a non-standard impact fee calculation is shown below.

FORMULA FOR NON-STANDARD PARK IMPACT FEES:

Estimated Population per Unit x \$1,486 = Impact Fee per Unit

² 11-36a-402(1)(c)

APPENDIX A: REVISED PARKS AND RECREATION EXISTING INVENTORY

PARK	TYPE	TOTAL ACREAGE	% CITY FUNDED	IF ELIGIBLE ACREAGE	IMPROVED TURF	PAVILION	RESTROOM	CONCESSIONS	SPLASH PAD	PLAYGROUND	DRINKING FOUNTAIN	BIKE RACK	PICNIC TABLES	GARBAGE CANS	BENCHES	PICKLEBALL COURT
						Acre	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each
Argo Circle Park	Developed	1.27	100%	1.27	1.26	-	-	-	-	1.00	-	-	-	1.00	2.00	-
Canterbury Circle Park	Developed	2.54	100%	2.54	2.25	1.00	-	-	-	1.00	-	-	7.00	2.00	2.00	2.00
Canterbury North Park + PI	Developed	6.10	100%	6.10	4.58	1.00	-	-	-	1.00	-	1.00	6.00	5.00	3.00	-
Dry Creek East Park + West	Developed	10.02	100%	10.02	7.20	-	-	-	-	1.00	-	-	-	1.00	5.00	-
Heritage Park	Developed	6.35	100%	6.35	5.45	1.00	1.00	1.00	-	1.00	3.00	-	18.00	7.00	8.00	-
Highland Glen Park (Grass Only)	Developed	2.06	0%	-	2.06	-	-	-	-	-	-	-	-	-	-	-
Highland Glen Park (Forested)	Developed	30.27	0%	-	-	-	1.00	-	-	1.00	1.00	-	14.00	-	15.00	-
Highland Glen Park	Developed	37.66	0%	-	-	1.00	1.00	-	-	-	3.00	2.00	14.00	2.00	8.00	-
Highland Hills Park + Chambery	Developed	6.57	100%	6.57	6.45	-	-	-	-	1.00	-	-	-	1.00	4.00	-
Mitchell Hollow Park	Developed	10.37	100%	10.37	5.18	1.00	1.00	-	-	1.00	1.00	1.00	17.00	10.00	3.00	-
Town Center Meadows Park	Developed	6.94	100%	6.94	3.84	1.00	-	-	-	1.00	-	-	8.00	2.00	5.00	-
Town Center Park	Developed	3.47	100%	3.47	1.42	-	1.00	-	1.00	-	1.00	3.00	-	6.00	41.00	-
Twin Bridges Park	Developed	1.13	100%	1.13	0.99	-	-	-	-	1.00	-	-	-	1.00	4.00	-
View Pointe Park	Developed	4.99	100%	4.99	4.75	-	-	-	-	1.00	-	-	-	1.00	2.00	-
Wimbledon North Park	Developed	1.83	100%	1.83	1.80	-	-	-	-	1.00	-	-	-	1.00	-	-
Wimbledon South Park	Developed	4.21	100%	4.21	3.81	-	-	-	-	1.00	-	-	-	2.00	2.00	-
Windsor Meadows Park	Developed	4.67	100%	4.67	4.37	1.00	-	-	-	2.00	-	-	4.00	2.00	2.00	-
Spring Creek Park	Developed	2.32	100%	2.32	2.07	1.00	-	-	-	1.00	1.00	1.00	4.00	2.00	2.00	-
Dry Creek Hollow Park	Undeveloped	39.39	100%	39.39	-	-	-	-	-	-	-	-	-	-	-	-
Beacon Hills Current	Developed	9.45	100%	9.45	7.13	-	1.00	-	-	-	1.00	1.00	-	2.00	2.00	-
Beacon Hills Future	Undeveloped	14.96	100%	14.96	-	-	-	-	-	-	-	-	-	-	-	-
Mountain Ridge	Undeveloped	16.99	100%	16.99	-	-	1.00	-	-	-	-	-	-	-	-	-
Trails	Developed	-	100%	-	-	-	-	-	-	-	-	-	-	-	-	-
Wildrose	Developed	2.70	100%	2.70	2.69	-	-	-	-	-	-	-	-	-	4.00	-
Lone Peak Fields	Developed	9.10	100%	9.10	7.19	-	-	-	-	-	-	-	-	-	-	-
Merlin Larson	Developed	1.32	100%	1.32	1.12	1.00	-	-	-	-	-	-	4.00	4.00	-	-
Apple Blossom	Developed	1.19	100%	1.19	1.14	-	-	-	-	1.00	-	-	-	1.00	-	-
Canyon Oaks Campground	Developed	0.75	100%	0.75	-	-	1.00	-	-	-	-	-	5.00	-	2.00	-
Total		238.62		168.62	76.74	9.00	8.00	1.00	1.00	17.00	11.00	9.00	101.00	53.00	116.00	2.00

PARK	TYPE	1/2 BASKETBALL	FULL BASKETBALL	SOCCER	BASEBALL	VOLLEYBALL	SWING SET	TETHERBALL	BLEACHERS	PARKING LOT	BARBEQUE	HORSESHOE	TENNIS COURTS	FLAGPOLE	LAKE/POND	IRRIGATED OPEN SPACE	PAVED TRAILS
		Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	LF.
Argo Circle Park	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Canterbury Circle Park	Developed	1.00	-	-	-	-	-	-	-	-	-	-	1.00	-	-	-	1.00
Canterbury North Park + PI	Developed	-	-	-	-	-	-	-	-	-	2.00	-	-	-	-	-	-
Dry Creek East Park + West	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.00
Heritage Park	Developed	1.00	-	-	1.00	1.00	-	1.00	1.00	1.00	4.00	4.00	-	1.00	-	-	-
Highland Glen Park (Grass Only)	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Highland Glen Park (Forested)	Developed	-	-	-	-	-	-	-	-	2.00	12.00	-	-	1.00	-	-	1.00
Highland Glen Park	Developed	-	-	-	-	1.00	-	-	-	1.00	2.00	-	-	-	1.00	-	1.00
Highland Hills Park + Chambery	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.00
Mitchell Hollow Park	Developed	-	-	1.00	1.00	1.00	-	-	-	1.00	4.00	-	-	1.00	-	-	1.00
Town Center Meadows Park	Developed	-	-	-	-	-	-	-	-	1.00	2.00	-	-	-	-	-	1.00
Town Center Park	Developed	-	-	-	-	-	-	-	-	5.00	-	-	-	-	-	1 (drip)	-
Twin Bridges Park	Developed	-	1.00	-	-	-	-	-	-	-	-	-	-	-	-	-	1.00
View Pointe Park	Developed	-	1.00	-	-	-	1.00	-	-	-	-	-	-	-	-	1 (bubbler)	1.00
Wimbledon North Park	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.00
Wimbledon South Park	Developed	-	-	1.00	-	-	-	-	-	1.00	-	-	-	-	-	-	1.00
Windsor Meadows Park	Developed	-	1.00	-	-	-	-	-	-	-	-	-	-	-	-	1 (bubbler)	1.00
Spring Creek Park	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1.00

PARK	TYPE	1/2 BASKETBALL	FULL BASKETBALL	SOCCER	BASEBALL	VOLLEYBALL	SWING SET	TETHERBALL	BLEACHERS	PARKING LOT	BARBEQUE	HORSESHOE	TENNIS COURTS	FLAGPOLE	LAKE/POND	IRRIGATED OPEN SPACE	PAVED TRAILS
Dry Creek Hollow Park	Undeveloped	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Beacon Hills Current	Developed	-	-	1.00	-	-	-	-	-	1.00	-	-	-	-	-	-	1.00
Beacon Hills Future	Undeveloped	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mountain Ridge	Undeveloped	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Trails	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	77,642.00
Wildrose	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1 (bubbler)	1.00
Lone Peak Fields	Developed	-	-	2.00	-	-	-	-	-	1.00	-	-	-	-	-	1 (drip)	-
Merlin Larson	Developed	-	-	-	-	1.00	-	-	-	-	-	-	-	-	-	1 (sprinklers)	-
Apple Blossom	Developed	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1 (bubblers)	-
Canyon Oaks Campground	Developed	-	-	-	-	-	-	-	-	1.00	2.00	-	-	-	-	-	-
Total		2.00	3.00	5.00	2.00	4.00	1.00	1.00	1.00	15.00	28.00	4.00	1.00	3.00	1.00	-	77,657.00

PARK	TYPE	TOTAL ACREAGE	LAND VALUE	IMPROVEMENT VALUE IFA ELIGIBILITY	BASE ELIGIBLE IMPROVEMENT VALUE	DESIGN & ENGINEERING	TOTAL IMPROVEMENT VALUE
Argo Circle Park	Developed	1.27	\$127,490	100%	\$178,400	\$26,760	\$205,160
Canterbury Circle Park	Developed	2.54	\$253,796	100%	\$435,706	\$65,356	\$501,062
Canterbury North Park + PI	Developed	6.10	\$610,234	100%	\$568,200	\$85,230	\$653,430
Dry Creek East Park + West	Developed	10.02	\$1,002,000	100%	\$776,206	\$116,431	\$892,637
Heritage Park	Developed	6.35	\$634,950	100%	\$1,613,850	\$242,078	\$1,855,928
Highland Glen Park (Grass Only)	Developed	-	-	-	-	-	-
Highland Glen Park (Forested)	Developed	-	-	-	-	-	-
Highland Glen Park	Developed	-	-	-	-	-	-
Highland Hills Park + Chambery	Developed	6.57	\$657,300	100%	\$700,606	\$105,091	\$805,697
Mitchell Hollow Park	Developed	10.37	\$1,036,560	100%	\$1,292,406	\$193,861	\$1,486,267
Town Center Meadows Park	Developed	6.94	\$693,932	100%	\$750,406	\$112,561	\$862,967
Town Center Park	Developed	3.47	\$346,779	100%	\$1,730,700	\$259,605	\$1,990,305
Twin Bridges Park	Developed	1.13	\$113,100	100%	\$194,306	\$29,146	\$223,452
View Pointe Park	Developed	4.99	\$498,700	100%	\$574,306	\$86,146	\$660,452
Wimbledon North Park	Developed	1.83	\$183,000	100%	\$230,506	\$34,576	\$265,082
Wimbledon South Park	Developed	4.21	\$420,700	100%	\$709,106	\$106,366	\$815,472
Windsor Meadows Park	Developed	4.67	\$467,000	100%	\$632,406	\$94,861	\$727,267
Spring Creek Park	Developed	2.32	\$231,690	100%	\$322,606	\$48,391	\$370,997
Dry Creek Hollow Park	Undeveloped	39.39	\$3,938,972	100%	-	-	-
Beacon Hills Current	Developed	9.45	\$945,000	100%	\$1,151,906	\$172,786	\$1,324,692
Beacon Hills Future	Undeveloped	14.96	\$1,496,051	100%	-	-	-
Mountain Ridge	Undeveloped	16.99	\$1,698,834	100%	\$150,000	\$22,500	\$172,500
Trails	Developed	-	-	100%	\$465,852	\$69,878	\$535,730
Wildrose	Developed	2.70	\$270,000	100%	\$273,806	\$41,071	\$314,877
Lone Peak Fields	Developed	9.10	\$910,000	100%	\$1,014,000	\$152,100	\$1,166,100
Merlin Larson	Developed	1.32	\$132,000	100%	\$206,000	\$30,900	\$236,900
Apple Blossom	Developed	1.19	\$119,000	100%	\$164,500	\$24,675	\$189,175
Canyon Oaks Campground	Developed	0.75	\$75,000	100%	\$410,300	\$61,545	\$471,845
Total		168.62	\$16,862,088		\$14,546,080	\$2,181,912	\$16,727,992

IMPACT FEE FACILITIES PLAN (IFFP) AND IMPACT FEE ANALYSIS (IFA)

FIRE/EMS, POLICE, PRESSURIZED IRRIGATION,
WASTEWATER, AND PARKS AND RECREATION

HIGHLAND CITY, UT

DECEMBER 2020

FINAL

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IMPACT FEE CERTIFICATION

IFFP CERTIFICATION

Lewis Young Robertson & Burningham, Inc. and Highland City jointly certify that the Impact Fee Facilities Plan ("IFFP") prepared for fire/EMS, police, pressurized irrigation, wastewater, and parks and recreation services:

1. Includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. Does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. any expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and
3. Complies in each and every relevant respect with the Impact Fees Act.

LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.
HIGHLAND CITY

IFA CERTIFICATION

Lewis Young Robertson & Burningham, Inc. certifies that the Impact Fee Analysis ("IFA") prepared for fire/EMS, police, pressurized irrigation, wastewater, and parks and recreation services:

1. Includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. Does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. any expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. Offsets costs with grants or other alternate sources of payment; and
4. Complies in each and every relevant respect with the Impact Fees Act.

Lewis Young Robertson & Burningham, Inc. makes this certification with the following caveats:

1. All of the recommendations for implementation of the IFFP made in the IFFP documents or in the IFA documents are followed by City Staff and elected officials.
2. If all or a portion of the IFFP or IFA are modified or amended, this certification is no longer valid.
3. All information provided to LYRB is assumed to be correct, complete, and accurate. This includes information provided by the City as well as outside sources.

LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.

DEFINITIONS

The following acronyms or abbreviations are used in this document:

AAGR: Average Annual Growth Rate

BO: Buildout

ERC: Equivalent Residential Connection

HH: Households

IFA: Impact Fee Analysis

IFFP: Impact Fee Facilities Plan

LOS: Level of Service

LYRB: Lewis Young Robertson and Burningham, Inc.

SF: Square Feet

SFR: Single Family Residential

MFR: Multi-family Residential

TSSD: Timpanogos Special Service District

SECTION 1: EXECUTIVE SUMMARY

The purpose of this IFFP, with supporting IFA, is to fulfill the requirements established in Utah Code Title 11 Chapter 36a, the "Impact Fees Act," and help Highland City (the "City") fund necessary capital improvements for future growth. This document will address the future Fire/EMS, Police, Pressurized Irrigation, Wastewater, and Parks and Recreation infrastructure needed to serve the City. While the focus of this study considers growth over the next ten years, the City is looking beyond that time frame at a 20-year time horizon and through build-out as well. For purposes of the impact fees, this analysis includes the appropriate fees the City may charge to new growth to maintain the established levels of service ("LOS") over the ten-year IFFP time horizon.

- ☞ **Service Area:** The impact fees identified in this document will be assessed within all areas of the City, including all annexation areas, as shown in **FIGURE 3.1**. Wastewater has two service areas, the Central Service area and Southeast Service Area. These will be described in the wastewater section of the analysis.
- ☞ **Demand Analysis:** The demand units utilized in this analysis include calls for service, irrigated acres, equivalent residential connections, and population. As new development occurs within the City, it generates increased demand on all City infrastructure. The system improvements identified in this study are designed to meet the demands of any new development or redeveloped property within the City.
- ☞ **Level of Service:** The existing LOS for each utility or service is defined in detail in each section of this document. Through an inventory of existing facilities combined with existing development, this analysis identifies the LOS provided to the City's existing development and ensures that future facilities maintain these standards.
- ☞ **Existing Facilities and Excess Capacity:** The demand analysis and LOS analysis allow for the development of a list of capital facilities necessary to serve new growth and maintain the existing LOS. This list includes any excess capacity of existing facilities, as well as future system improvements necessary to maintain the LOS. The inclusion of excess capacity is known as a "buy-in." Any demand generated from new development that overburdens the existing system beyond the existing capacity justifies the construction of new facilities.
- ☞ **Outstanding Debt:** The City has three sources of outstanding debt. The first bond is a parks bond originally issued in 2007 and refunded in 2016. The second bond is a public safety bond originally issued in 2006 and refinanced in 2015. This was then refunded on April 1st, 2020. The third bond is a revenue refunding bond from 2009, which was used for pressurized irrigation.
- ☞ **Future Capital Facilities Analysis:** The following chapters in this analysis identify the capital facilities needed to maintain the LOS based on the demand analysis specific to Fire/EMS, Police, Pressurized Irrigation, Wastewater and Parks and Recreation. The plans consider a ten-year time horizon, and growth projections are considered over a ten-year and build-out horizon. The impact fee calculations, however, consider a ten-year time horizon and the improvements necessary to serve the anticipated development over that time frame.
- ☞ **Funding of Future Facilities:** This analysis assumes future growth-related facilities will be funded through a combination of General Fund revenues, grant monies, other governmental revenues, and impact fee revenues. Where applicable, interest costs can be included in the total cost to fund proposed system improvements.

SUMMARY OF PROPOSED IMPACT FEES

The impact fees proposed in this analysis will be assessed within the City-wide Service Area, with the exception of wastewater. The tables below illustrate the calculated impact fee for fire/EMS, police, pressurized irrigation, wastewater, and parks and recreation.

TABLE 1.1: FIRE IMPACT FEE PER UNIT SUMMARY

	COST PER CALL	CALLS PER UNIT	PROPOSED IMPACT FEE PER UNIT	CURRENT IMPACT FEE PER UNIT	% CHANGE
Single Family Residential (per dwelling unit)	\$6,356	0.081	\$515.67	\$581.88	-11%
Multi-Family Residential (per dwelling unit)	\$6,356	0.064	\$409.05	\$90.01	354%
Assisted Living/Senior Living (per dwelling unit)	\$6,356	0.452	\$2,870.45	\$365.94	684%
Non-Residential (per 1,000 square feet)	\$6,356	0.055	\$347.71	\$365.94	-5%

TABLE 1.2: POLICE IMPACT FEE PER UNIT SUMMARY

	COST PER CALL	CALLS PER UNIT	PROPOSED IMPACT FEE PER UNIT	CURRENT IMPACT FEE PER UNIT	% CHANGE
Single Family Residential (per dwelling unit)	\$292	0.839	\$245.02	\$533.79	-54%
Multi-Family Residential (per dwelling unit)	\$292	0.473	\$138.05	\$75.32	83%
Non-Residential (per 1,000 square feet)	\$292	0.889	\$259.58	\$336.24	-23%

TABLE 1.3: PRESSURIZED IRRIGATION IMPACT FEE PER UNIT SUMMARY

COMPONENT	TOTAL COST	% THAT WILL SERVE 10 YR. DEMAND	DOLLAR AMOUNT THAT WILL SERVE 10 YR. DEMAND	10 YR. DEMAND (IRRIGATED ACRES)	COST PER IRRIGATED ACRE
Future 10 Year Capital Projects	\$5,597,328	86%	\$4,825,871	416	\$11,596.49
Existing Infrastructure	\$11,476,847	24%	\$2,733,353	416	\$6,568.20
Existing Irrigation Debt - Interest Only	\$1,207,487	24%	\$287,578	416	\$691.05
Pressurized Irrigation Subtotal	\$18,281,662	43%	\$7,846,802	416	\$18,855.74
Professional Services/Credits					
IFFP/IFA	\$10,850	100%	\$10,850	416	\$26.07
Professional Services/Credits Subtotal	\$10,850	100%	\$10,850	416	\$26.07
Total Impact Fee	\$18,292,512	43%	\$7,857,652	416	\$18,881.82

TABLE 1.4: CENTRAL SERVICE AREA WASTEWATER IMPACT FEE PER UNIT SUMMARY

UNIT OF MEASURE	PROPOSED	CURRENT	% CHANGE
Per ERC	\$1,155.12	\$2,125.98	-46%
Per Fixture Units (26 per ERC)	\$44.43	\$81.77	-46%
Per Gallon	\$3.30	\$6.07	-46%

TABLE 1.5: SOUTHEAST SERVICE AREA WASTEWATER IMPACT FEE PER UNIT SUMMARY

UNIT OF MEASURE	PROPOSED	CURRENT	% CHANGE
Per ERC	\$2,108	\$2,175.14	-3%
Per Fixture Units (26 per ERC)	\$81.09	\$83.66	-3%
Per Gallon	\$6.02	\$6.21	-3%

TABLE 1.6: PARKS AND RECREATION IMPACT FEE PER UNIT SUMMARY

IMPACT FEE PER HH	PERSONS PER HH	PROPOSED FEE PER HH	EXISTING FEE PER HH	% CHANGE
Single Family	4.24	\$5,854	\$4,378	34%
Multi-Family (Including Mobile Homes)	3.48	\$4,804	\$4,239	13%

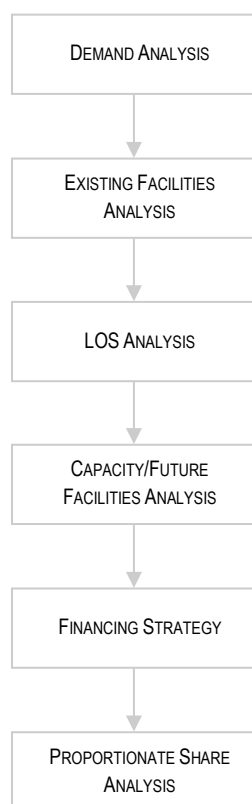
NON-STANDARD IMPACT FEES

The City reserves the right under the Impact Fees Act to assess an adjusted fee that more closely matches the true impact that a specific land use will have upon public facilities.¹ This adjustment could result in a different impact fee than what is standard for its land use. An adjustment can be made if the developer can provide documentation, evidence, or other credible analysis that the proposed impact will be different than what is proposed in this analysis.

¹ 11-36a-402(1)(c)

SECTION 2: GENERAL IMPACT FEE METHODOLOGY

FIGURE 2.1: IMPACT FEE METHODOLOGY



The purpose of this study is to fulfill the requirements of the Impact Fees Act regarding the establishment of an IFFP and IFA. The IFFP identifies the demands placed upon the City's existing facilities by future development and evaluates how these demands will be met by the City. The IFFP is also intended to outline the improvements which are intended to be funded by impact fees. The purpose of the IFA is to allocate the cost of the new facilities and any excess capacity to new development, while ensuring that all methods of financing are considered. The Impact Fees Act requires that the IFFP and IFA consider the historic LOS provided to existing development and ensure that the proposed impact fees maintain the existing LOS. The following elements are important considerations when completing an IFFP and IFA.

DEMAND ANALYSIS

The demand analysis serves as the foundation for the IFFP. This element focuses on a specific demand unit related to each public service – the existing demand on public facilities and the future demand as a result of new development that will affect system facilities.

EXISTING FACILITIES ANALYSIS

In order to quantify the demands placed upon existing public facilities by new development activity, to the extent possible the IFFP provides an inventory of the City's existing system facilities. The inventory valuation should include the original construction cost and estimated useful life of each facility. The inventory of existing facilities is important to determine the excess capacity of existing facilities and the utilization of excess capacity by new development.

LEVEL OF SERVICE ANALYSIS

"Level of service" or "LOS" means the defined performance standard or unit of demand for each capital component of a public facility within a service area. Through the inventory of existing facilities, combined with the growth assumptions, this analysis identifies the existing LOS that is provided to a community's existing residents and ensures that future facilities maintain these standards.

EXCESS CAPACITY AND FUTURE CAPITAL FACILITIES ANALYSIS

The demand analysis, existing facility inventory and LOS analysis allow for the development of a list of capital projects necessary to serve new growth and to maintain the existing system. This list includes any excess capacity of existing facilities as well as future system improvements necessary to maintain the LOS. Any excess capacity identified within existing facilities can be apportioned to new development. Any demand generated from new development that overburdens the existing system beyond the existing capacity justifies the construction of new facilities.

FINANCING STRATEGY

This analysis must also include a consideration of all revenue sources, including impact fees, future debt costs, alternative funding sources and the dedication of system improvements, which may be used to finance system improvements.² In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of new facilities between the new and existing users.³

PROPORTIONATE SHARE ANALYSIS

The written impact fee analysis is required under the Impact Fees Act and must identify the impacts placed on the facilities by development activity and how these impacts are reasonably related to the new development. The written impact fee analysis must include a proportionate share analysis, clearly detailing each cost component and the methodology used to calculate each impact fee. A local political subdivision or private entity may only impose impact fees on development activities when its plan for financing

² 11-36a-302(2)

³ 11-36a-302(3)

system improvements establishes that impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future (UCA 11-36a-302).

IMPACT FEE METHODOLOGIES

There are two methods employed in this analysis to determine the maximum allowable impact fees: the Growth-Driven Approach and the Plan Based Approach.

GROWTH-DRIVEN (PERPETUATION OF EXISTING LOS)

The growth-driven method utilizes the existing level of service and perpetuates that level of service into the future. Impact fees are then calculated to provide sufficient funds for the entity to expand or provide additional facilities as growth occurs within the community. Under this methodology, impact fees are calculated to ensure new development provides sufficient investment to maintain the current LOS standards in the community. This approach is often used for public facilities that are not governed by specific capacity limitations and do not need to be built before development occurs (i.e. park facilities).

NEW FACILITY – PLAN BASED (FEE BASED ON DEFINED CIP)

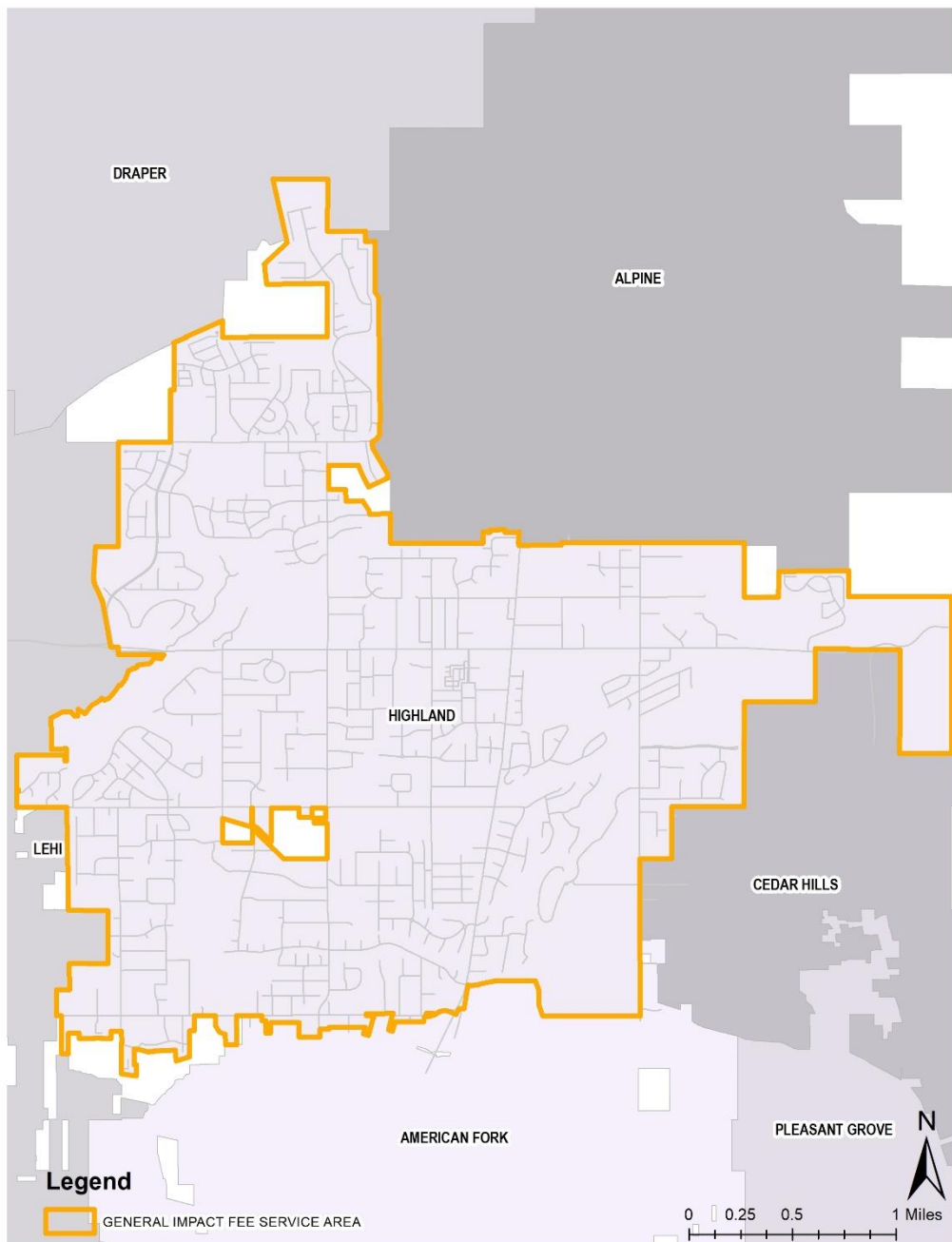
Impact fees can also be calculated based on a defined set of capital costs specified for future development. The improvements are identified in a capital plan or impact fee facilities plan as growth-related system improvements. The total cost is divided by the total demand units the improvements are designed to serve. Under this methodology, it is important to identify the existing level of service and determine any excess capacity in existing facilities that could serve new growth. Impact fees are then calculated based on many variables centered on proportionality and level of service.

SECTION 3: OVERVIEW OF SERVICE AREA & GENERAL DEMAND FIGURES

SERVICE AREA

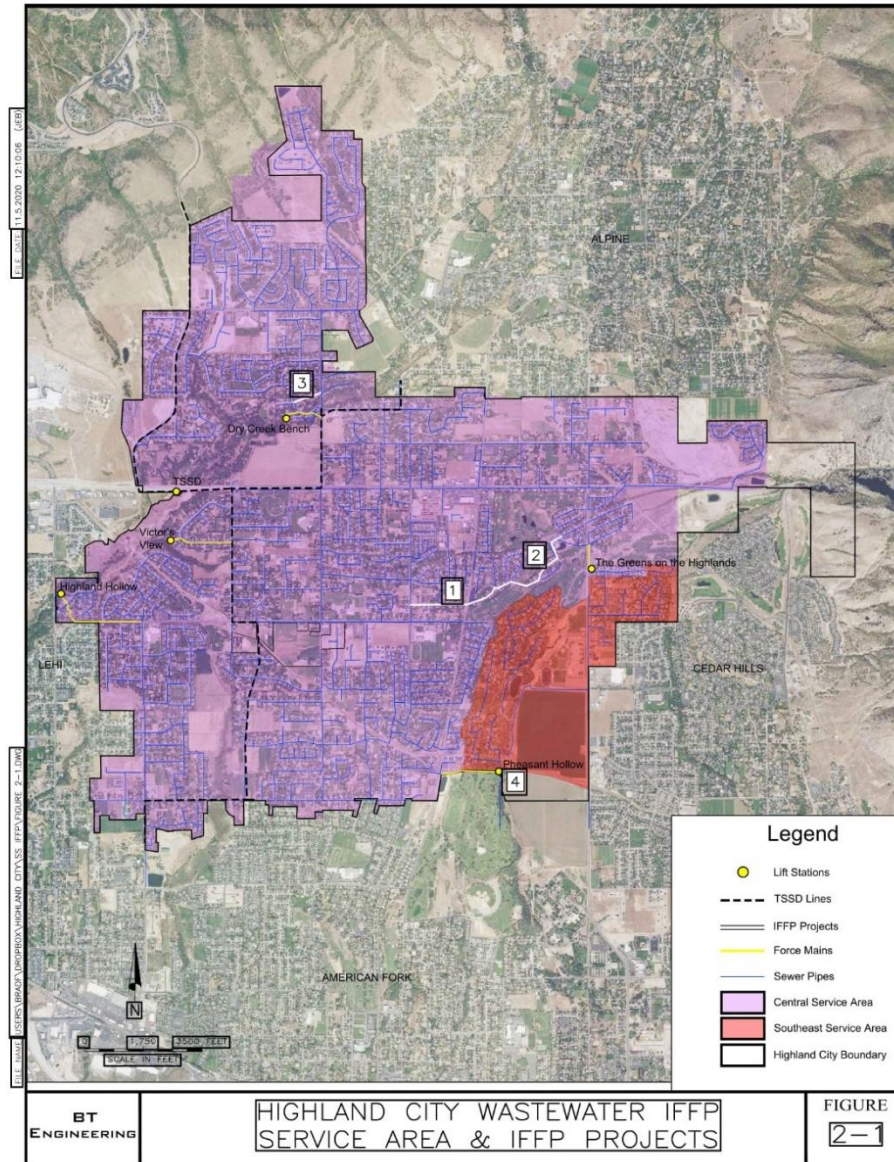
Utah Code requires the impact fee enactment to establish one or more service areas within which impact fees will be imposed.⁴ The Service Area for all impact fees except wastewater includes all areas within the current municipal boundaries of the City and future annexation areas as they are annexed into the City, as shown in **FIGURE 3.1**. Wastewater impact fees will be assessed within two distinct service areas, as shown in **FIGURE 3.2**. This document identifies the future system improvements for the Service Area(s) necessary to maintain the existing LOS into the future.

FIGURE 3.1: SERVICE AREA



⁴ UC 11-36a-402(1)(a)

FIGURE 3.2: WASTEWATER SERVICE AREAS



DEMAND ANALYSIS

The demand units utilized in this analysis include fire/EMS calls, police calls, population, irrigated acres, and equivalent residential connections (ERCs). As new development occurs within the City, it generates increased demand on City infrastructure. The system improvements identified in this study are designed to maintain the existing LOS for any new property within the City. **TABLES 3.1 – 3.2** identify the existing development conditions within the City, as well as the anticipated new development forecasted to occur within the planning horizon, along with the growth in demand units anticipated over a 10-year and 20-year time horizon.

TABLE 3.1: PROJECTED GROWTH IN DEMAND UNITS

YEAR	POPULATION	FIRE/EMS CALLS	POLICE CALLS	IRRIGATED ACRES	CENTRAL ERCs	SOUTHEAST ERCs
2020	19,392	619	9,283	1,430	4,374	242
2030	25,120	667	10,123	1,808	4,885	942

SECTION 4: FIRE IFFP AND IFA

This section will address the Fire IFFP and supporting IFA, to help the City plan for the necessary capital improvements for future growth. This will address the fire infrastructure and apparatus, both existing and future, needed to serve the City through the next ten years, as well as address the appropriate fire impact fees the City may charge to new growth to maintain the existing LOS.

DEMAND

The primary demand unit related to the fire IFA is growth in calls for service. It is anticipated that the City will experience an increase of 48 calls for service in the next ten years.

TABLE 4.1: PROJECTED GROWTH IN FIRE/EMS CALLS

YEAR	PROJECTED CALLS
2020	619
2021	623
2022	627
2023	632
2024	637
2025	642
2026	647
2027	652
2028	657
2029	662
2030	667
2040	717
2050	768
IFFP Growth	48
Buildout	768

TABLE 4.2: EXISTING PUBLIC SAFETY FACILITIES

FIRE FACILITIES	FACILITY SQUARE FEET	% IFA ELIGIBLE
Fire SF	16,998	100%
Total Fire	16,998	
POLICE FACILITIES	FACILITY SQUARE FEET	% IFA ELIGIBLE
Police SF	13,710	84%
Holding Cells/Courthouse	2,590	16%
Total Police	16,300	100%

EXISTING FACILITIES INVENTORY

The City currently has one fire station to consider in the IFFP and IFA. The Impact Fees Act allows Cities to include in the calculation of the impact fee: a building constructed or leased to house police, fire, or other public safety entities; or a fire suppression vehicle costing in excess of \$500,000.⁵ The methodology that has been determined to allocate the facility costs most fairly in the case of the fire impact fee considers 100% of the existing facilities and impact fee eligible apparatus. These public safety facilities are shown below in TABLE 4.2. It should be noted that the impact fee eligible apparatus costs can only be recovered by non-residential development.

LEVEL OF SERVICE

Level of service for fire facilities focuses on the specific demand unit related to fire services – calls for service. The demand analysis identifies the existing demand on public facilities and the anticipated future demand generated from new development, based on historic trends. The demand analysis considers growth in demand units over the planning horizon of the IFFP and ultimate build-out. Call data used to determine the average calls for residential and non-residential development is from 2017-2019.

The annual call volume for the City for 2019 was 443 private calls for service. TABLE 4.3 illustrates the call ratio per developed unit. The call ratio analysis establishes the existing LOS for residential and non-residential land uses. A review of existing non-residential land uses in the City shows a mix of business types. This suggests the call data is based on a variety of businesses that reflect a cross-section of the types of business that will likely continue to develop in the City.

TABLE 4.3: HISTORIC & PROJECTED FIRE CALL DATA BY LAND USE CATEGORY

CALL RATIOS	EXISTING UNITS	AVERAGE CALLS	CALLS PER UNIT	BUILDOUT UNITS	BUILDOUT CALLS
Single Family (per Unit)	4,351	353	0.081	5,570	452
Multi Family Dwelling (per Unit)	404	26	0.064	927	60
Assisted Living/Senior Living	62	28	0.452	-	-
Commercial (per 1K SF)	658	36	0.055	763	42
				Subtotal Private Calls	553
				Estimate of Other Calls	215
				Total Calls	768

⁵ 11-36a-102(17)(a)

In addition to the call ratio LOS, this analysis evaluates a building square footage LOS, based on existing building square footage and total annual fire calls. It has been determined that the existing station is adequate to serve the City through build-out. With the current building square footage of 16,998 and projected annual calls at build-out of 768, this produces a square footage LOS of 22.13 SF/call, which will be maintained through build-out, assuming development occurs as anticipated.

To determine the demand placed upon existing public facilities by new development, this analysis estimates the additional call volume that undeveloped land uses will generate. The call ratios per developed unit have been projected across the undeveloped residential and non-residential land uses, and **TABLE 4.3** illustrates the projected future fire calls based upon the historic data collected from each land use category.

As shown in **TABLE 4.3**, the City anticipates a total 768 annual calls through build-out, of which 553 are expected to be calls to private development.⁶ The private development calls for service represent approximately 72 percent of the buildout calls for service. This percentage will be used to determine the proportionate share of fire facilities to include in the impact fee calculation.

EXCESS CAPACITY

The fire impact fee will be calculated considering existing facilities and calls from existing and future development. In order to equitably share the demands placed upon public facilities by existing and new development activity, the IFFP provides an inventory of the City's existing facilities and the future planned facilities along with the development the City will be able to serve while maintaining the current LOS. The inventory of existing facilities (above) is important as there is a buy-in component to the fire impact fee. As **TABLE 4.2** shows, the City maintains 16,998 square feet of fire facility space. The original cost of these facilities (including the apparatus) to be included in the impact fee calculations totals \$3,286,781. These facilities and costs will be spread across all development within the service area.

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The existing facilities have been paid for through a combination of General Fund monies, Federal HUD Grant monies, and impact fees. It is anticipated that the additional burden placed on the fire department by new development will be funded through impact fee revenues.

The City contributes to the repayment of a 2006 sales and franchise tax revenue bonds. This bond was refinanced in 2015 and refunded on April 1st, 2020. The City's portion of the interest expense of this loan is included in the calculation of the impact fee and shown in **TABLE 4.4**.

TABLE 4.4: SUMMARY OF FIRE STATION FINANCING

CATEGORY	TOTAL PUBLIC SAFETY BUILDING COST	% OF TOTAL	ALLOCATION TO FIRE	FIRE IFA ELIGIBLE	FIRE IFA COST
Total Police and Fire Facility Cost	\$6,072,768	70%	\$3,286,781	100%	\$3,286,781
Interest Related to Police and Fire Facilities	\$2,604,035	30%	\$1,409,389	100%	\$1,409,389
Total Cost	\$8,676,803		\$4,696,170		\$4,696,170

FUTURE CAPITAL FACILITIES ANALYSIS

It is anticipated that the existing facilities will be sufficient to provide for services through buildout. No additional fire facilities or apparatus are considered in this analysis. It is anticipated that the existing facilities will serve a total of 768 calls, based on the SF LOS of 22.13 SF/call.

PROPOSED FIRE IMPACT FEE

The fire impact fees proposed in this analysis will be assessed within the entire service area. The fire impact fee utilizes the Plan Based Approach, which is based on a defined set of capital costs specified for future development. The City's existing facilities are proportionately allocated to all calls for service, providing an equitable distribution of the City's facilities. It is anticipated that the existing facilities will be used to respond to calls for service from new development activity. The cost per call is based on the existing facilities buy-in, as shown in **TABLE 4.5**, and is the basis for the maximum impact fees per land use category, as shown in **TABLE 4.6**.

⁶ The IFFP and IFA should be updated regularly to account for changes in growth assumptions.

IMPACT FEE CALCULATIONS

TABLE 4.5: ESTIMATE OF IMPACT FEE COST PER CALL

	ESTIMATED COST	IF ELIGIBLE	COST TO IMPACT FEE	DEMAND SERVED	COST PER CALL
Existing Facilities	\$3,286,781	6%	\$205,393	48	\$4,279
Financing Costs	\$1,409,389	6%	\$88,074	48	\$1,835
Impact Fee Analysis	\$11,630	100%	\$11,630	48	\$242
Total Impact Fee Cost			\$305,096		\$6,356

FIRE IMPACT FEE BY LAND USE TYPE

The cost per call is then multiplied by the actual demand unit of measurement or calls per unit for each development type as shown in TABLE 4.6. The total cost per call includes the cost per call for facilities and professional expense.

TABLE 4.6: RECOMMENDED FIRE IMPACT FEE SCHEDULE

	COST PER CALL	CALLS PER UNIT	PROPOSED IMPACT FEE PER UNIT	CURRENT IMPACT FEE PER UNIT	% CHANGE
Single Family Residential (per dwelling unit)	\$6,356	0.081	\$515.67	\$581.88	-11%
Multi-Family Residential (per dwelling unit)	\$6,356	0.064	\$409.05	\$90.01	354%
Assisted Living/Senior Living (per dwelling unit)	\$6,356	0.452	\$2,870.45	\$365.94	684%
Non-Residential (per 1,000 square feet)	\$6,356	0.055	\$347.71	\$365.94	-5%

The fees for public safety service are changing due to fluctuations in the calls per unit by land use type, the City recently refinancing applicable debt service, updates to original cost assumptions, and changes in build-out land-use information.

NON-STANDARD FIRE IMPACT FEES

The City reserves the right under the Impact Fees Act to assess an adjusted fee that more closely matches the true impact that the land use will have upon fire facilities.⁷ This adjustment could result in a different impact fee if the City determines that a particular user may create a different impact than what is standard for its land use. The City may adjust the impact fee if the developer can provide documentation, evidence, or other credible analysis that the proposed impact will be different than what is proposed in this analysis. The formula for determining a non-standard impact fee is found below.

FORMULA FOR NON-STANDARD FIRE IMPACT FEES:

Estimate of Annual Call Volume per Unit x \$6,356 = Impact Fee per Unit

⁷ UC 11-36a-402(1)(c)

SECTION 5: POLICE IFFP AND IFA

The purpose of this section is to address the Police IFFP, with supporting IFA, and to help the City plan for the necessary capital improvements for future growth. This section will address the future police infrastructure needed to serve the City through the next ten years, as well as address the appropriate police impact fees the City may charge to new growth to maintain the existing LOS.

TABLE 5.1: POLICE CALL PROJECTIONS

YEAR	PROJECTED CALLS
2020	9,283
2021	9,364
2022	9,445
2023	9,527
2024	9,610
2025	9,694
2026	9,778
2027	9,863
2028	9,949
2029	10,036
2030	10,123
2040	11,039
2050	12,037
IFFP Growth	840
Buildout	12,037

DEMAND

This element focuses on the specific demand unit related to police services – calls for service.⁸ The demand analysis identifies the existing demand on public facilities and the future demand generated from new development. The demand analysis also provides projected annual growth in demand units over the planning horizon of the IFFP. Call data used to determine the average calls for residential and non-residential development is from 2017-2019.

The annual call volume for the City for 2019 was 9,203 calls for service. **TABLE 5.2** illustrates the call ratio per developed unit. The call ratio analysis establishes the existing LOS for residential and non-residential land-uses. A review of existing businesses in the City shows a mix of business types. This suggests the call data is based on a variety of businesses that reflect a cross-section of the types of businesses that will likely continue to develop in the City.

In order to determine the demand placed upon existing public facilities by new development, this analysis projects the additional call volume that undeveloped land uses will generate. An in-depth analysis has been prepared to determine the number of developed units or building square footage in each zoning category, and the number of calls per unit or 1,000 square feet of building square footage and has been assigned to each land use category. **Table 5.2** illustrates the projected future police calls based upon the number of historic calls by land use category.

TABLE 5.2: HISTORIC & PROJECTED POLICE CALL DATA BY LAND USE CATEGORY

CALL RATIOS	EXISTING UNITS	AVERAGE CALLS	CURRENT CALLS PER UNIT	BUILDOUT UNITS	BUILDOUT CALLS
Single Family (per Unit)	4,351	3,651	0.84	5,570	4,674
Multi-Family Dwelling (per Unit)	404	191	0.47	927	438
Private Non-Residential (per 1000 square feet)	658	585	0.89	763	678
				Subtotal Private Calls	5,790
				Estimate of Other Calls	6,247
				Total Calls	12,037

As shown in **Table 5.1**, the City anticipates an additional 2,834 annual calls through buildout. The total annual calls at buildout are expected to be approximately 12,037.

EXISTING FACILITIES INVENTORY

To quantify the demands placed upon existing public facilities by new development activity, the IFFP provides an inventory of the City's existing facilities. The inventory of existing facilities is important to properly determine the excess capacity of existing facilities and the utilization of excess capacity by new development. As shown in **TABLE 5.3**, there is a total of 16,300 building square feet attributed to police.

LEVEL OF SERVICE

The LOS for purposes of this analysis is calls per development type. **TABLE 5.2** illustrates the existing level of service expressed in calls per development type.

⁸ Police call means a call that initiates the deployment of an officer to a location within the City.

EXCESS CAPACITY

The City has indicated that the existing facility is sufficient to serve all police calls through the time horizon of this analysis. Thus, the impact fees in this analysis are calculated based on an equitable distribution of the portion of the existing facility that will serve development. The Impact Fees Act does not allow for the inclusion of holding cells or courthouses in the calculation of the impact fee, therefore, the portion of the building used for these purposes has been excluded from the fee calculations.

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The existing facilities have been paid for through a combination of General Fund monies and impact fees. It is anticipated that the additional burden placed on the police department by new development will be funded through impact fee revenues.

The City contributes to the repayment of a 2006 sales and franchise tax revenue bonds. This bond was refinanced in 2015 and refunded on April 1st, 2020. The City's portion of the interest expense on this loan is included in the calculation of the impact fee and shown in **TABLE 5.4**.

TABLE 5.3: EXISTING POLICE FACILITIES

FIRE FACILITIES	FACILITY SQUARE FEET	% IFA ELIGIBLE
Fire SF	16,998	100%
Total Fire	16,998	
POLICE FACILITIES	FACILITY SQUARE FEET	% IFA ELIGIBLE
Police SF	13,710	84%
Holding Cells/Courthouse	2,590	16%
Total Police	16,300	100%

TABLE 5.4: COST OF EXISTING POLICE FACILITIES

CATEGORY	TOTAL PUBLIC SAFETY BUILDING COST	% OF TOTAL	ALLOCATION TO POLICE	POLICE IFA ELIGIBLE*	POLICE IFA COST
Total Police and Fire Facility Cost	\$6,072,768	70%	\$2,785,987	84%	\$2,343,306
Interest Related to Police and Fire Facilities	\$2,604,035	30%	\$1,194,646	84%	\$1,004,822
Total Cost	\$8,676,803		\$3,980,633		\$3,348,128

*Approximately 16 percent of the police SF dedicated to Holding cells and the Courthouse is removed from the analysis

FUTURE CAPITAL FACILITIES ANALYSIS

The City has indicated that the existing facility will be sufficient to serve all police calls through the horizon of this analysis.

PROPOSED POLICE IMPACT FEE

The police impact fee is based on the plan-based methodology. Using this approach, impact fees are calculated based on a defined set of capital costs specified for future development. The improvements are identified in a capital plan or impact fee facilities plan as growth-related system improvements. The City's existing and proposed future facilities are then proportionately allocated to the new development calls for service, providing an equitable distribution of the existing and proposed facilities that will serve development. The total cost is divided by the total demand units the improvements are designed to serve. Under this methodology, it is important to identify the existing level of service and determine any excess capacity in existing facilities that could serve new growth. Impact fees are then calculated based on many variables centered on proportionality and level of service.

Highland City does not anticipate any new facilities at this time; thus, the impact fee analysis only considers a buy-in to existing facilities. The police impact fees proposed in this analysis will be assessed throughout the entire service area.

IMPACT FEE CALCULATIONS

TABLE 5.5: ESTIMATE OF IMPACT FEE COST PER CALL

	ESTIMATED COST	IF ELIGIBLE	DEMAND SERVED	COST TO IMPACT FEE	COST PER CALL
Existing Facilities	\$2,343,306	7%	840	\$163,524	\$195
Financing Costs	\$1,004,822	7%	840	\$70,120	\$83
Future Facilities (Land and Building)	\$0	0%	840	\$0	\$0
Impact Fee Analysis	\$11,630	100%	840	\$11,630	\$14
Impact Fee Fund Balance	\$0	100%	840	\$0	\$0
Total Impact Fee Cost				\$245,275	\$292

POLICE IMPACT FEE BY LAND USE TYPE

The cost per call is then multiplied by the actual demand unit of measurement, or calls per unit for each development type, as shown in **TABLE 5.6**. The total cost per call includes the cost per call for facilities and professional expense.

TABLE 5.6: RECOMMENDED POLICE IMPACT FEE SCHEDULE

	COST PER CALL	CALLS PER UNIT	PROPOSED IMPACT FEE PER UNIT	CURRENT IMPACT FEE PER UNIT	% CHANGE
Single Family Residential (per dwelling unit)	\$292	0.839	\$245.02	\$533.79	-54%
Multi-Family Residential (per dwelling unit)	\$292	0.473	\$138.05	\$75.32	83%
Private Non-Residential (per 1,000 square feet)	\$292	0.889	\$259.58	\$336.24	-23%

The fees for public safety service are changing due to fluctuations in the calls per unit by land use type, the City recently refinancing applicable debt service, updates to original cost assumptions, and changes in build-out land-use information.

NON-STANDARD POLICE IMPACT FEES

The City reserves the right under the Impact Fees Act to assess an adjusted fee that more closely matches the true impact that the land use will have upon police facilities.⁹ This adjustment could result in a different fee if the City determines that a particular user may create a different impact than what is standard for its land use. The City may adjust the impact fee if the developer can provide documentation, evidence, or other credible analysis that the proposed impact will be different than what is proposed in this analysis. The formula for determining a non-standard impact fee, assuming the fair share approach, is found below.

FORMULA FOR NON-STANDARD POLICE IMPACT FEES:

Estimate of Annual Call Volume per Unit x \$292 = Impact Fee per Unit

⁹ UC 11-36a-402(1)(c)

SECTION 6: PRESSURIZED IRRIGATION IFA

Impact fees are calculated based on many variables centered on proportionality and LOS. Future demands were identified previously in this document, and this section will discuss the existing and proposed level of service, the availability of excess capacity, the needed future facilities to serve new development, and the appropriate impact fee to be assessed to new development to maintain the existing LOS. This section of the analysis deals with the City's pressurized irrigation system. The information utilized in this analysis is based off the Highland City Pressurized Irrigation IFFP completed in November 2020, which is based on the Pressurized Irrigation Master Plan completed by Hansen Allen & Luce in 2019. Following is a review of the information from the IFFP and the IFA. If any changes are made to the IFFP this analysis should be updated to reflect the changes.

DEMAND

The demand unit related to pressurized irrigation is irrigated acres. The increase in irrigated acres is calculated using the increase in population to determine growth in total irrigated acres. According to the IFFP, an average of 50% of each developed acre will be irrigated and counted in this analysis. **TABLE 6.1** shows the demand for pressurized irrigation.

TABLE 6.1: PRESSURIZED IRRIGATION DEMAND

YEAR	POPULATION	GROWTH IN TOTAL ACRES	IRRIGATED ACRES
2019	20,114	2,783	1,392
2020	20,516	2,861	1,430
2021	20,926	2,939	1,470
2022	21,345	3,017	1,508
2023	21,772	3,094	1,547
2024	22,207	3,174	1,587
2025	22,651	3,259	1,630
2026	23,104	3,345	1,673
2027	23,566	3,433	1,716
2028	24,038	3,523	1,761
2029	24,518	3,615	1,808
2050	37,162	3,730	1,865

Source: 2020 Pressurized Irrigation IFFP Pg. 2

and can be found in **TABLE 6.3**. Approximately \$2.7 million of original cost is considered impact fee qualifying.

TABLE 6.2: PRESSURIZED IRRIGATION LEVEL OF SERVICE

ATTRIBUTE	LOS
Peak Day Demand	10 (gpm)/Irrigated acre
Peak Instantaneous Demand	20 (gpm)/Irrigated acre
Minimum Storage	8500 gallons/Irrigated acre
Water Connection Pressure Range	50 psi - 120 psi
Maximum Connection Pressure Range	30 psi

Source: 2020 Pressurized Irrigation IFFP Pg. 3

LEVEL OF SERVICE

The IFFP defines the level of service for the pressurized irrigation system. The IFA cannot increase the level of service in the system, but only maintain existing conditions. Below in **TABLE 6.2** is the defined level of service for the pressurized irrigation system.

EXISTING FACILITIES INVENTORY

Highland City owns and operates the pressurized irrigation system. This system is used to water outdoor landscaped areas. The original system was built in 1997. Some of the costs of this system can be attributed to new growth since the growth will benefit from the existing system. This process is called buy-in and the value attributable to new growth was identified

EXCESS CAPACITY

The existing system has excess capacity within storage and distribution to serve new growth. The total storage capacity is 50.4 acre-feet, and all ponds are in good condition. As shown in **TABLE 6.3**, the Upper/Lower storage ponds do not have existing capacity, but the northwest pond has sufficient excess capacity to build out conditions.

TABLE 6.3: EXCESS STORAGE SUMMARY

SERVICE ZONE	EXISTING VOLUME (AC-FT)	2020 STORAGE DEMAND	EXISTING EXCESS CAPACITY	2029 STORAGE DEMAND	BUILDOUT STORAGE DEMAND
Upper/Lower	31.4	31.4	0.0	39.6	40.1
Northwest	19.0	6.8	12.4	8.5	8.5
Total	50.4	38.1	NA	48.1	48.6

Source: 2020 Pressurized Irrigation IFFP Pg. 4

The IFFP determined that source does not have any excess capacity, especially during the late seasons of the year. A deficit of about 17 cfs exists to maintain the existing level of service. All pipes in the distribution system are in good condition as they were constructed in 1997. Every zone in the system has excess capacity in the distribution system except for the upper zone. Two additional lines have been considered in this analysis from the IFFP to maintain the level of service.

The City's Upper & 11800 North booster stations no longer have excess capacity for growth projected in the next ten years. The booster station capacities is shown in **TABLE 6.4**.

TABLE 6.4: EXISTING PUMP AND BOOSTER STATION CAPACITY SUMMARY

PUMP STATION	PRESSURE ZONES SERVED	CAPACITY (GPM)	EXISTING (GPM)	FUTURE (GPM)
Upper	Upper Pressure Zone	6,000	5,610	6,615
11800 North	Northwest Area	2,500	2,502	3,274
Hog Hollow	Hog Hollow above Northeast Zone	690	508	508

Source: 2020 Pressurized Irrigation IFFP Pg. 4

A summary of the excess capacity calculation is found in **TABLE 6.5**.

TABLE 6.5: PRESSURIZED IRRIGATION EXISTING FACILITIES INVENTORY

	EXISTING	10 YEAR	BUILDOUT	ORIGINAL COST	IMPACT FEE QUALIFYING COST	IMPACT FEE QUALIFYING BEYOND 10 YEARS	NON-IMPACT FEE QUALIFYING
Storage							
NW Pond	78%	22%	0%	587,468	131,068	248	456,152
Pump Stations							
11800 PS & Well	75%	22%	3%	1,427,049	318,385	43,828	1,064,836
Lower PS	100%	0%	0%	206,336	-	-	206,336
Hogs Hollow PS	100%	0%	0%	231,556	-	-	231,556
Source							
11800 Enhanced Well Capacity (MP#2a)	0%	87%	13%	333,800	289,942	43,858	-
Original System							
System Less Upper Pond & Canterbury	75%	22%	3%	7,662,529	1,709,566	235,333	5,717,631
Upper Pond (No Capacity)	100%	0%	0%	598,471	-	-	598,471
Pipeline							
18" Transmission Line - 6000 West	75%	22%	3%	137,562	30,691	4,225	102,646
12" Canal Blvd Transmission Line (MP#9)	0%	87%	13%	292,076	253,700	38,376	-
Total				\$11,476,847	\$2,733,353	\$365,866	\$8,377,628

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The City's existing pressurized irrigation infrastructure has been funded through a combination of utility rate revenues and other governmental funds. The City issued the Series 2009 Revenue Refunding Bonds to fund upgrades to the system. The interest associated with this bond is included in the calculation of the impact fee. According to the City's financial records, a total of \$1,207,487.12 in interest expense is associated with this debt.

FUTURE CAPITAL FACILITIES ANALYSIS

The City's staff and consultants have completed a review and analysis of the current pressurized irrigation system, evaluated future development within the service area, and detailed the improvements necessary in the next ten years to maintain and expand the collection system in order to serve the entire service area through ultimate build-out. Improvements needed beyond the ten-year time horizon will not be considered in this analysis.

This analysis will consider only projects that will be constructed in the next ten years. **TABLE 6.8** summarizes the City's plans to expand the existing pressurized irrigation system and create additional capacity within the system to address the City's projected needs. The estimated costs shown include only the cost to new growth.

TABLE 6.8: FUTURE FACILITIES

TYPE & MASTER PLAN ID	YEAR TO BE CONSTRUCTED	2020 COST	CONSTRUCTION COST WITH INFLATION	% TO EXISTING	% IMPACT FEE	% TO BUILDOUT	IMPACT FEE QUALIFYING COST	IMPACT FEE QUALIFYING BEYOND 10 YEARS	NON-IMPACT FEE QUALIFYING
MP #2 Source	2021	54,000	55,620	73%	24%	3%	13,349	1,669	40,603
MP #3 Pumping	2021	120,960	124,589	0%	87%	13%	108,195	16,394	-
MP #8 Distribution	2027	58,320	71,726	0%	87%	13%	62,288	9,438	-

TYPE & MASTER PLAN ID	YEAR TO BE CONSTRUCTED	2020 COST	CONSTRUCTION COST WITH INFLATION	% TO EXISTING	% IMPACT FEE	% TO BUILDOUT	IMPACT FEE QUALIFYING COST	IMPACT FEE QUALIFYING BEYOND 10 YEARS	NON-IMPACT FEE QUALIFYING
Rev MP #12 Storage	2021	1,708,000	1,759,240	0%	87%	13%	1,527,757	231,483	-
MP #13 Pumping	2027	145,800	179,316	0%	87%	13%	155,721	23,595	-
MP #14 Source	2021	1,115,640	1,149,109	0%	87%	13%	997,908	151,201	-
MP #15 Source	2024	1,823,040	2,051,848	0%	87%	13%	1,781,862	269,985	-
MP #16 Distribution	2027	167,400	205,881	0%	87%	13%	178,791	27,090	-
Total		\$5,193,160	\$5,597,328				\$4,825,871	\$730,855	\$40,603

Source: 2020 Pressurized Irrigation IFFP Pg. 7

PROPOSED PRESSURIZED IRRIGATION IMPACT FEE

The pressurized irrigation impact fee is based on the plan-based methodology. Using this approach, impact fees are calculated based on a defined set of capital costs specified for future development. The improvements are identified in a capital plan or impact fee facilities plan as growth-related system improvements. The City's existing and proposed future facilities are then proportionately allocated to the new development irrigated acres, providing an equitable distribution of the existing and proposed facilities that will serve development. The total cost is divided by the total demand units the improvements are designed to serve. Under this methodology, it is important to identify the existing level of service and determine any excess capacity in existing facilities that could serve new growth. Impact fees are then calculated based on many variables centered on proportionality and level of service.

The pressurized irrigation impact fees proposed in this analysis will be assessed within the entire Service Area. The tables below illustrate the appropriate impact fee to maintain the existing level of service, based on the assumptions within this document and the IFFP. The fees below represent the maximum allowable impact fee assignable to new development. The total fee per irrigated acre is **\$18,882**.

IMPACT FEE CALCULATIONS

TABLE 6.10: IMPACT FEE PER IRRIGABLE ACRE

COMPONENT	TOTAL COST	% THAT WILL SERVE 10 YR. DEMAND	DOLLAR AMOUNT THAT WILL SERVE 10 YR. DEMAND	10 YR. DEMAND (IRRIGATED ACRES)	COST PER IRRIGATED ACRE
Future 10 Year Capital Projects	\$5,597,328	86%	\$4,825,871	416	\$11,596.49
Existing Infrastructure	\$11,476,847	24%	\$2,733,353	416	\$6,568.20
Existing Irrigation Debt - Interest Only	\$1,207,487	24%	\$287,578	416	\$691.05
Pressurized Irrigation Subtotal	\$18,281,662	43%	\$7,846,802	416	\$18,855.74
Professional Services/Credits					
IFFP/IFA	\$10,850	100%	\$10,850	416	\$26.07
Professional Services/Credits Subtotal	\$10,850	100%	\$10,850	416	\$26.07
Total Impact Fee	\$18,292,512	43%	\$7,857,652	416	\$18,881.82

NON-STANDARD IMPACT FEE

The City reserves the right under the Impact Fees Act¹⁰ to assess an adjusted fee that more closely matches the true impact that the land use will have upon the wastewater system. This adjustment could result in a lower impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. The formula for a non-standard impact fee calculation is shown below.

NON-STANDARD IMPACT FEE FORMULA

Estimated Irrigated Acres x \$18,882.82 = Impact Fee

¹⁰ 11-36a-402(1)(c)

SECTION 7: WASTEWATER IFA

Impact fees are calculated based on many variables centered on proportionality and LOS. Future demands were identified previously in this document, and this section will discuss the existing and proposed level of service, the availability of excess capacity, the needed future facilities to serve new development, and the appropriate impact fee to be assessed to new development to maintain the existing LOS. This analysis deals solely with the City's wastewater collection system. The information utilized in this analysis is based on the IFFP completed November 2020. The following contains a summary of the information contained in the IFFP and the IFA.

DEMAND AND SERVICE AREAS

Wastewater services in the City are assessed in two separate service areas. The collection system was divided into these two separate service areas to reflect the different growth patterns in each area. The Central Service Area serves most of the City and reflects average annual growth rates. The Southeast Service Area is expected to grow at a more rapid pace. The impact fees for wastewater will be calculated for each of the areas, as shown in the map in **SECTION 3**.

The demand unit for this analysis is equivalent residential connections (ERCs). It is anticipated that the City will experience a growth of 511 ERCs in the Central Service Area and 700 ERCs in the Southeast Service Area. A summary of the growth in demand can be found in **TABLE 7.1**.

TABLE 7.1: ERC DEMAND PROJECTIONS

YEAR	CENTRAL ERCs	SOUTHEAST ERCs	TOTAL ERCs
2020	4,374	242	4,616
Year 10	4,885	942	5,827
Buildout	5,500	997	6,497

Source: 2020 Wastewater IFFP Pg. 2-1

EXISTING FACILITIES INVENTORY

Highland City provides wastewater collection services to approximately 8.6 square miles and approximately 20,000 residents in northeastern Utah County, Utah. The wastewater collection system contains over 60 miles of wastewater pipe ranging between 8 and 15 inches in diameter, and over 1,600 manholes. Highland City has 5 wastewater pumping stations

that help convey all of the wastewater collected by the system to the Timpanogos Special Service District (TSSD) trunk lines and to the TSSD treatment plant. Hansen, Allen, & Luce Inc. completed the initial Wastewater Collection System Master Plan for Highland City in 2007. An update to the Master Plan was completed in 2020 that reviewed current growth projections and system capacity. Information from the master plan was used in conjunction with data from Highland City to create the impact fee facility plan¹¹. This analysis attributes a portion of the existing system to new development, referred to as buy-in. Approximately \$1.1 million is attributed to new growth in the 10-year horizon between the two service areas, as shown in **TABLE 7.2**.

TABLE 7.2: EXISTING FACILITY INVENTORY

EXISTING FACILITY COSTS	% EXISTING	% TO 10 Yr. GROWTH	% TO BUILDOUT	ORIGINAL INSTALL COST	COST TO EXISTING	COST TO 10 Yr. GROWTH	COST TO BUILDOUT
Southeast Area							
Existing Trunk Lines	24%	70%	6%	1,055,010	253,202	738,507	63,301
Total				\$1,055,010	\$253,202	\$738,507	\$63,301
Central Area							
Existing Trunk Lines	80%	9%	11%	3,042,726	1,204,076	311,135	380,276
Dry Creek LS	80%	9%	11%	531,997	425,500	49,734	56,763
Total				\$3,574,723	\$1,629,576	\$360,869	\$437,038
Combined Total				\$4,629,733	\$1,882,778	\$1,099,376	\$500,339

LEVEL OF SERVICE

Impact fees cannot be used to finance an increase in the level of service (LOS) to current or future users of capital improvements. Therefore, it is important to identify the wastewater LOS to ensure that the new capacities of projects financed through impact fees do not exceed the established standard. This analysis considers a level of service based on actual flows contributing to the wastewater system. The following table from the IFFP defines the LOS for this analysis.

¹¹ Paragraph excerpt IFFP Pg. 2-1

TABLE 7.3: WASTEWATER LEVEL OF SERVICE

CATEGORY	LOS	2020	2029	BUILDOUT
Average Day Flow	350 gpd/ERC	1.62 MGD	2.04 MGD	2.27 MGD
Peak Day Flow		Ave Day Flow x 2.1517 x (ERCs x 350 / 1,000,000) ^-0.156		
Maximum Depth Ratio		70% for 15+\" pipes, 50% for pipes smaller than 15"		
Minimum Velocity		2 fps		

Source: 2020 Wastewater IFFP Pg. 2-3

EXCESS CAPACITY

The IFFP analyzed the current system based on the LOS to see if any additional capacity exists to serve new growth. Future projects can only be considered if they are needed to maintain the LOS and the need cannot be fulfilled by existing capacity. **TABLE 7.2** above shows the amount of capacity in the existing system, by service area, along with the costs attributable to the capacity, available to serve development over the 10 year horizon and through ultimate build-out. **TABLE 7.4** below shows the summary of the City owned pump station and the amount of capacity available for new growth, as determined in the IFFP.

TABLE 7.4: PUMP STATION EXCESS CAPACITY

PUMP STATION	CAPACITY	BUILDOUT PEAK FLOW	EXISTING 2020		10 YR. GROWTH		GROWTH BEYOND 10 YR.	
			ERC	%	ERC	%	ERC	%
Dry Creek Bench	850 gpm	850 gpm	871	80%	102	9.40%	116	10.60%

Source: 2020 Wastewater IFFP Pg. 2-3

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The City's existing sewer infrastructure has been funded through a combination of utility rate revenues and other governmental funds. No outstanding debt exists to include in the wastewater IFA.

FUTURE CAPITAL FACILITIES ANALYSIS

The City's staff and consultants have completed a review and analysis of the current collection system, evaluated future development within the service areas, and detailed the improvements necessary in the next ten years to maintain and expand the collection system in order to serve both service areas through ultimate build-out. Improvements needed beyond the ten-year time horizon will not be considered in this analysis.

This analysis will consider only projects that will be constructed in the next ten years. **TABLE 7.5** summarizes the City's plans to expand the existing wastewater system and create additional capacity within the system to address the City's projected needs. The estimated costs shown include only the cost to new growth.

TABLE 7.5: WASTEWATER CAPITAL IMPROVEMENT PLAN

DESCRIPTION	ANTICIPATED YEAR	PROJECT COST	CONSTRUCTION YEAR COST	ERC UTILIZATION			COST DUE TO 10 YR. GROWTH
Central Service Area				Existing	2020-2029	2029 – Buildout	
12" Pipe Replacement in 10480 North (MP#1)	2025	\$419,000	\$485,736	72%	13%	16%	\$63,146
12" Pipe Replacement in County Club Drive (MP#2)	2022	\$1,050,000	\$1,113,945	78%	10%	12%	\$111,395
12" Pipe Replacement in Dry Creek Circle (MP#3)	2022	\$398,000	\$422,238	72%	12%	15%	\$50,669
Southeast Service Area				Existing	2020-2029	2029 – Buildout	
12" Pipe Replacement (MP#4)	2022	\$987,000	\$1,047,108	24%	70%	6%	\$732,976

Source: 2020 Wastewater IFFP Pg. 2-5

PROPOSED WASTEWATER IMPACT FEE

Impact fees can be calculated based on a defined set of costs specified for future development, usually defined within the Master Plan, Capital Improvement Plan and/or IFFP. The total project costs are divided by the total demand units the projects are designed to serve. Under this methodology, it is important to identify the existing level of service and determine any excess capacity in existing facilities that could serve new growth. Impact fees are then calculated based on many variables centered on proportionate share and level of service.

The wastewater impact fees proposed in this analysis will be assessed within each of the Service Areas. The tables below illustrate the appropriate impact fee to maintain the existing level of service, based on the assumptions within this document. The fees in **TABLES 7.6-7.7** represent the maximum allowable impact fee assignable to new development. The total fee per ERC in the central areas is **\$1,155**, and the total fee in the southeast area is **\$2,108**.

WASTEWATER IMPACT FEE CALCULATIONS

TABLE 7.6: IMPACT FEE PER ERC – CENTRAL SERVICE AREA

CENTRAL SERVICE AREA	COST	% IMPACT FEE QUALIFYING	IMPACT FEE QUALIFYING COST	ERCs TO BE SERVED	COST PER ERC
IFFP Projects	\$2,021,919	11%	\$225,209	511	\$441
Buy-in Existing Assets	\$3,574,723	10%	\$360,869	511	\$706
Professional Services/Credits					
IFA	\$8,850	50%	\$4,425	511	\$9
Total	\$5,605,492	11%	\$590,503		\$1,155

UNIT OF MEASURE	PROPOSED	CURRENT	% CHANGE
Per ERC	\$1,155.12	\$2,125.98	-46%
Per Fixture Units (26 per ERC)	\$44.43	\$81.77	-46%
Per Gallon	\$3.30	\$6.07	-46%

TABLE 7.7: IMPACT FEE PER ERC – SOUTHEAST SERVICE AREA

SOUTHEAST SERVICE AREA	COST	% IMPACT FEE QUALIFYING	IMPACT FEE QUALIFYING COST	ERCs TO BE SERVED	COST PER ERC
IFFP Projects	\$1,047,108	70%	\$732,976	700	\$1,047
Buy-in Existing Assets	\$1,055,010	70%	\$738,507	700	\$1,055
Professional Services/Credits					
IFA	\$8,850	50%	\$4,425	700	\$6
Total	\$2,102,118	70%	\$1,475,908		\$2,108

UNIT OF MEASURE	PROPOSED	CURRENT	% CHANGE
Per ERC	\$2,108	\$2,175.14	-3%
Per Fixture Units (26 per ERC)	\$81.09	\$83.66	-3%
Per Gallon	\$6.02	\$6.21	-3%

NON-STANDARD IMPACT FEE

The City reserves the right under the Impact Fees Act¹² to assess an adjusted fee that more closely matches the true impact that the land use will have upon the wastewater system. This adjustment could result in a lower impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. The formula for a non-standard impact fee calculation is shown below.

NON-STANDARD IMPACT FEE FORMULA

Central Service Area: Estimated ERCs x \$1,155 = Impact Fee

Southeast Service Area: Estimated ERCs x \$2,108 = Impact Fee

¹² 11-36a-402(1)(c)

SECTION 8: PARK IFFP AND IFA

Parks impact fees are typically calculated using the growth driven approach. This method calculates a level of service based on existing conditions within the service area, with the intent to perpetuate that level of service into the future. Impact fees are then calculated to provide the revenue necessary for the entity to provide sufficient facilities to future development as growth occurs within the community. This chapter will establish a LOS based on the existing park facilities and amenities provided to development within the service area.

DEMAND

The primary demand unit related to the park IFA is population growth. It is anticipated that the City's population will increase by 4,405 people in the next ten years.

TABLE 8.1: PROJECTED GROWTH IN DEMAND UNITS

YEAR	POPULATION
2019	18,876
2020	19,392
2021	19,903
2022	20,412
2023	20,943
2024	21,501
2025	22,068
2026	22,646
2027	23,238
2028	23,849
2029	24,477
2030	25,120

TABLE 8.2: EXISTING FACILITY INVENTORY

PARK TYPE	TOTAL ACREAGE	LOS PER 1,000 CAPITA
Total	220.23	1.45

TABLE 8.3: EXISTING FACILITY INVESTMENT

FY	TOTAL	FY	TOTAL
1992	\$58,091	2006	\$949,576
1993	\$474	2007	\$1,069,717
1994	\$65,847	2008	\$3,403,940
1995	\$21,844	2009	\$4,441,058
1996	\$12,762	2010	\$836,218
1997	\$21,385	2011	\$147,954
1998	\$30,075	2012	\$45,023
1999	\$203,109	2013	\$731,464
2000	\$211,167	2014	\$157,082
2001	\$273,628	2015	\$61,303
2002	\$345,826	2016	\$82,245
2003	\$380,322	2017	\$121,104
2004	\$707,623	2019	\$267,639
2005	\$408,869	Grand Total	\$15,055,344

EXISTING FACILITIES INVENTORY

The City's existing inventory for parks and recreation is summarized in **TABLE 8.2**. The city-owned acreage and estimated total improvement value illustrated below will be the basis for the LOS analysis discussed later in this section, and the detailed inventory can be found in **APPENDIX A**.

LEVEL OF SERVICE

The specific demand unit used for the Park IFFP and IFA is population. The population projections are based on several sources including Census data, Governor's Office of Management and Budget (GOMB) estimates, and City data. The population in the City at the time of the calculation for LOS was approximately 18,876. This analysis assumes the population within the planning window will reach 24,477 or an increase of approximately 5,728 residents from 2020.

TABLE 8.2 illustrates the total park acreage provided by the City within the Service Area. Typically, new growth results in the need to construct additional park facilities to maintain the existing LOS. However, it is anticipated that the City's existing facilities will serve new development activity. The buy-in calculation is identified in the next section.

EXCESS CAPACITY

The City has one outstanding debt issue that will be considered in the analysis as buy-in. The interest that is eligible for the IFA from this bond will be subtracted from the value of existing assets used for the per capita LOS to ensure that the value is not being doubled counted. The Census population estimate was used to calculate the per capita value.

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The City's existing parks infrastructure has been funded through a combination of General Fund revenues, grants, other governmental funds, and donations. General Fund revenues include a mix of property taxes, sales taxes, federal and state grants, and any other available General Fund revenues. The City has received donations to fund parks and trails facilities, therefore donated park land and

improvements are not included in the impact fee calculations. The City issued bonds in 2007 for parks improvements, and the value of the bonds will be shared equally across the increase in population from the issuance date of the bonds, through 2027.

TABLE 8.4: BUY-IN DETERMINATION

BUY-IN DETERMINATION	BUY-IN COMPONENT	POPULATION SERVED	PER PERSON
Principal Related to Buy-In	\$7,315,000	7,738	\$945.29
Interest Related to Buy-In	\$3,352,444	7,738	\$433.22
Total Buy-In	\$10,667,444	7,738	\$1,378.52

FUTURE CAPITAL FACILITIES ANALYSIS

Typically, new growth results in the need to construct additional park facilities to maintain the existing LOS. However, it is anticipated that the City's existing facilities will serve new development activity. The buy-in calculation is identified in this analysis.

PROPOSED PARKS IMPACT FEE

The calculation of impact fees relies upon the information contained in this analysis. The timing of construction for growth-related park facilities will depend on the rate of development and the availability of funding. For purposes of this analysis, a specific construction schedule is not required. The construction of park facilities can lag behind development without impeding continued development activity. This analysis assumes that construction of needed park facilities will proceed on a pay-as-you-go basis.

The calculation of the park impact fee is based on the Growth-Driven Approach, which is based on the increase, or **growth**, in residential demand. The growth-driven methodology utilizes the existing LOS and perpetuates that LOS into the future. Impact fees are then calculated to provide sufficient funds for the entity to expand or provide additional facilities, as growth occurs within the community. Under this methodology, impact fees are calculated to ensure new development provides sufficient investment to maintain the current LOS standards in the community. This approach is often used for public facilities that are not governed by specific capacity limitations and do not need to be built before development occurs (i.e. park facilities).

PARKS AND RECREATION IMPACT FEE CALCULATION

Utilizing the estimated buy-in fee and the cost of professional expenses related to the preparation of the impact fee analysis, the total fee per capita is shown in **TABLE 8.6** below.

TABLE 8.6: ESTIMATE OF IMPACT FEE VALUE PER CAPITA

TYPE OF IMPROVEMENT	VALUE PER CAPITA
Buy-In	\$1,379
Impact Fee Analysis	\$2
Estimate of Impact Fee Per Capita	\$1,381

PARKS AND RECREATION IMPACT FEE BY HOUSEHOLD TYPE

Based on the per capita fee, the proposed impact fee per household is summarized in **TABLE 8.7**.

TABLE 8.7: PARK IMPACT FEE SCHEDULE

IMPACT FEE PER HH	PERSONS PER HH	PROPOSED FEE PER HH	EXISTING FEE PER HH	% CHANGE
Single Family	4.24	\$5,854	\$4,378	34%
Multi-Family (Including Mobile Homes)	3.48	\$4,804	\$4,239	13%

NON-STANDARD IMPACT FEE

The proposed fees are based upon population growth. The City reserves the right under the Impact Fees Act to assess an adjusted fee that more closely matches the true impact that the land use will have upon park facilities.¹³ This adjustment could result in a higher impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The City may also decrease the impact fee if the developer can provide documentation, evidence, or other credible analysis that the proposed impact will be lower than what is proposed in this analysis. The formula for determining a non-standard impact fee is found below.

FORMULA FOR NON-STANDARD PARK IMPACT FEES:

Estimated Population per Unit x \$1,381 = Impact Fee per Unit

¹³ 11-36a-402(1)(c)

SECTION 9: GENERAL IMPACT FEE CONSIDERATIONS

SYSTEM VS. PROJECT IMPROVEMENTS

System improvements are defined as existing and future public facilities designed to provide services to service areas within the community at large.¹⁴ Project improvements are improvements and facilities that are planned and designed to provide service for a specific development (resulting from a development activity) and considered necessary for the use and convenience of the occupants or users of that development.¹⁵ To the extent possible, this analysis only includes the costs of system improvements related to new growth within the proportionate share analysis.

FUNDING OF FUTURE FACILITIES

The IFFP must include a consideration of all revenue sources, including impact fees and the dedication of system improvements, which may be used to finance system improvements.¹⁶ In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.¹⁷

In considering the funding of future facilities, the City has determined the portion of future projects that will be funded by impact fees as growth-related, system improvements. No other revenues from other government agencies, grants or developer contributions have been identified within the IFFP to help offset future capital costs. If these revenues become available in the future, the impact fee analysis should be revised. It is anticipated that future project improvements will be funded by the developer. These costs have not been included in the calculation of the impact fee.

Other revenues such as utility rate revenues will be necessary to fund non growth-related projects and to fund growth related projects when sufficient impact fee revenues are not available. In the latter case, impact fee revenues will be used to repay utility rate revenues for growth related projects. A brief description of alternative financing options is included below.

- ☞ **Utility Rate Revenues:** Utility rate revenues serve as the primary funding mechanism within enterprise funds. Rates are established to ensure appropriate coverage of all operations and maintenance expenses, debt service coverage, and capital project needs. Impact fee revenues are generally considered non-operating revenues and help offset future capital costs.
- ☞ **Grants, Donations and Other Contributions:** Grants and donations are not expected as a future funding source. The impact fees should be adjusted if grant monies are received. New development may be entitled to a reimbursement for any grants or donations received for growth related projects, or for developer funded IFFP projects.
- ☞ **Debt Financing:** The City does not anticipate the need to utilize debt financing to fund future capital facility projects. Should the City desire to fund future projects through debt financing, the Impact Fees Act allows for the costs related to the financing of future capital projects to be included in the impact fee. However, the impact fee analysis should be updated to reflect this inclusion.

EQUITY OF IMPACT FEES

Impact fees are intended to recover the costs of capital infrastructure that relate to future growth. The impact fee calculations are structured for impact fees to fund 100 percent of the growth-related facilities identified in the proportionate share analysis of each impact fee calculation as presented in the impact fee analysis. Even so, there may be years that impact fee revenues cannot cover the annual growth-related expenses. In those years, other revenues, such as General Fund revenues, will be used to make up any annual deficits. Any borrowed funds are to be repaid in their entirety through impact fees.

NECESSITY OF IMPACT FEES

An entity may only impose impact fees on development activity if the entity's plan for financing system improvements establishes that impact fees are necessary to achieve parity between existing and new development. This analysis has identified the improvements to public facilities and the funding mechanisms to complete the suggested improvements. Impact fees are identified

¹⁴ 11-36a-102(21)

¹⁵ 11-36a-102(14)

¹⁶ 11-36a-302(2)

¹⁷ 11-36a-302(3)

as a necessary funding mechanism to help offset the costs of capital improvements related to new growth. In addition, alternative funding mechanisms are identified to help offset the cost of future capital improvements.

PROPOSED CREDITS OWED TO DEVELOPMENT

The Impact Fees Act requires a local political subdivision or private entity to ensure that the impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer: (a) dedicates land for a system improvement; (b) builds and dedicates some or all of a system improvement; or (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.¹⁸ The facilities must be considered system improvements or be dedicated to the public, and offset the need for an improvement identified in the IFFP.

CONSIDERATION OF ALL REVENUE SOURCES

The Impact Fees Act requires the proportionate share analysis to demonstrate that impact fees paid by new development are the most equitable method of funding growth-related infrastructure.

EXPENDITURE OF IMPACT FEES

Legislation requires that impact fees should be spent or encumbered within six years after each impact fee is paid. Impact fees collected in the next six years should be spent on those projects outlined in the IFFP as growth related costs to maintain the LOS. Impact fees collected as a buy-in to existing facilities can be allocated to the General Fund to repay the City for historic investment.

GROWTH-DRIVEN EXTRAORDINARY COSTS

The City does not anticipate any extraordinary costs necessary to provide services to future development.

SUMMARY OF TIME PRICE DIFFERENTIAL

The Impact Fees Act allows for the inclusion of a time price differential to ensure that the future value of costs incurred at a later date are accurately calculated to include the costs of construction inflation. This analysis includes an inflation component to reflect the future cost of facilities. The impact fee analysis should be updated regularly to account for changes in cost estimates over time.

¹⁸ 11-36a-402(2)

APPENDIX A: PARKS AND RECREATION EXISTING INVENTORY

PARK	TYPE	TOTAL ACREAGE	PAVILION	RESTROOM	CONCESSIONS	SPLASH PAD	PLAYGROUND	DRINKING FOUNTAIN	BIKE RACK	PICNIC TABLES	GARBAGE CANS	BENCHES	PICKLEBALL COURT
			Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each
Argo Circle Park	Developed	1.18	0	0	0	0	1	0	0	0	0	2	0
Canterbury Circle Park	Developed	2.69	1	0	0	0	1	0	0	7	0	1	1
Canterbury North Park	Developed	3.79	1	0	0	0	1	0	1	6	5	3	0
Dry Creek East Park	Developed	2.75	0	0	0	0	1	0	0	0	0	3	0
Heritage Park	Developed	6.23	1	1	1	0	1	3	0	16	5	8	0
Highland Glen Park	Developed	75.00	1	1	0	0	1	0	0	1	0	2	0
Highland Hills Park	Developed	6.81	0	0	0	0	1	0	0	0	0	4	0
Mitchell Hollow Park	Developed	12.93	1	1	0	0	1	0	2	17	3	2	0
Town Center Meadows Park	Developed	5.68	1	0	0	0	1	0	0	8	0	3	0
Town Center Park	Developed	2.03	1	1	0	1	0	0	0	0	0	0	0
Twin Bridges Park	Developed	0.79	0	0	0	0	1	0	0	0	0	4	0
View Pointe Park	Developed	3.16	0	0	0	0	1	0	0	0	0	2	0
Wimbledon North Park	Developed	1.90	0	0	0	0	1	0	0	0	0	0	0
Wimbledon South Park	Developed	4.21	0	0	0	0	1	0	0	0	0	2	0
Windsor Meadows Park	Developed	4.88	1	0	0	0	1	0	0	0	0	2	0
Spring Creek Park	Undeveloped	2.32	0	0	0	0	0	0	0	0	0	0	0
Dry Creek Hollow Park	Undeveloped	44.00	0	0	0	0	0	0	0	0	0	0	0
Beacon Hills	Undeveloped	22.28	0	0	0	0	0	0	0	0	0	0	0
Mountain Ridge	Undeveloped	17.60	0	0	0	0	0	0	0	0	0	0	0
Trails	Developed	0.00	0	0	0	0	0	0	0	0	0	0	0
Total		220.23	8	4	1	1	14	3	3	55	13	38	1

PARK	1/2 BASKETBALL	FULL BASKETBALL	SOCCER	BASEBALL	VOLLEYBALL	SWING SET	TETHERBALL	BLEACHERS	PARKING LOT	BARBEQUE	HORSESHOE	TENNIS COURTS	FLAGPOLE	LAKE/POND	IRRIGATED OPEN SPACE	PAVED TRAILS
	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	Each	LF.
Argo Circle Park	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Canterbury Circle Park	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Canterbury North Park	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0
Dry Creek East Park	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Heritage Park	1	0	0	1	1	0	1	0	0	4	1	0	1	0	0	0
Highland Glen Park	0	0	0	0	1	0	0	0	0	1	0	0	0	1	6	0
Highland Hills Park	0	0	0	0	0	0	0	0	0		0	0	0	0	0	0
Mitchell Hollow Park	0	0	1	1	1	0	0	0	0	5	0	0	1	0	0	0
Town Center Meadows Park	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0
Town Center Park	0	0	0	0	0	0	0	0	0	2	0	0	0	0	2	0
Twin Bridges Park	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
View Pointe Park	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Wimbledon North Park	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wimbledon South Park	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Windsor Meadows Park	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Spring Creek Park	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dry Creek Hollow Park	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Beacon Hills	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mountain Ridge	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Trails	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	77,642
Total	1	5	3	2	3	1	1	0	0	14	1	1	2	1	9	77,642

IMPACT FEE ORDINANCE

Highland City, Utah
ORDINANCE NO.
2023-

ORDINANCE ADOPTING AN IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS AND IMPOSING IMPACT FEES FOR PARKS AND RECREATION; PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES; PROVIDING FOR APPEAL, ACCOUNTING AND SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS

WHEREAS, Highland City, Utah (the "City"), adopted an impact fee facilities plan and impact fee analysis by way of ordinance imposing an impact fee for parks and recreation within the service area of Highland City (collectively, the "2020 Impact Fee Plan and Analysis");

WHEREAS, Highland City determined that it would be beneficial to update and amend the 2020 Impact Fee Plan and Analysis in order to address ongoing development and impacts to city facilities;

WHEREAS, Highland City, Utah posted notice of its intention to prepare an updated and amended impact fee facilities plan ("Impact Fee Facilities Plan") and updated and amended impact fee analysis ("Impact Fee Analysis") for Parks and Recreation on March 15, 2023, and invited all interested parties to participate in the impact fee preparation process, consistent with UCA Section 11-36a-501 and -503;

WHEREAS, Highland City is a municipality in the State of Utah, authorized and organized under the provisions of Utah law and is authorized pursuant to the Impact Fees Act, Utah Code Ann. 11-36a-101 et seq. to adopt impact fees; and

WHEREAS, on May 5, 2023 the City posted notice of a public hearing to consider the assumptions and conclusions of the Impact Fee Facilities Plan, the Impact Fee Analysis, and the Impact Fee Ordinance;

WHEREAS, the Impact Fee Facilities Plan Consultant have certified their work under UCA section 11-36a-306(1);

WHEREAS, the Impact Fee Analysis Consultant certifies its work under UCA Section 11-36a-306(2);

WHEREAS, on May 5, 2023 a copy of the Impact Fee Analysis and Impact Fee Facilities Plan and the proposed Impact Fee Ordinance, along with a summary of the analyses that was designated to be understood by a lay person, were made available to the public and deposited at Highland Public Library, and on the public notice website; and

WHEREAS, the Highland City Council (the "Council") met in regular session on May 16, 2023, to convene a public hearing and to consider adopting the Impact Fee Facilities Plan, the Impact Fee Analysis, and the Impact Fee Ordinance, imposing updated Parks and Recreation,

impact fees, providing for the calculation and collection of such fees, and providing for an appeal process, accounting and reporting method and other related matters; and

WHEREAS, on May 16, 2023, considering the input of the public and stakeholders and relying on the professional advice and certification of the Impact Fee Facilities Plan Consultants, Highland City adopted the findings, conclusions, and recommendations of the Impact Fee Analysis prepared by Lewis Young Robertson & Burningham, Inc. ("Consultant"), a copy of which is attached hereto; and

WHEREAS, after careful consideration and review of the comments at the public hearing, the Council has determined that it is in the best interest of the health, safety and welfare of the inhabitants of Highland City to adopt the findings and recommendations of the Impact Fee Facilities Plan and Impact Fee Analysis to address the impacts of development upon parks and recreation facilities and needs, to adopt the Impact Fee Facilities Plan as proposed, to approve the Impact Fee Analysis as proposed, to adopt Parks and Recreation impact fees, to provide for the calculation and collection of such fees, and to provide for an appeal process, and an accounting and reporting method of the same.

NOW, THEREFORE, BE IT ORDAINED by the Highland City Council as follows:

Section 1. Findings. The Council finds and determines as follows:

1.1. All required notices have been given and made and public hearings conducted as requested by the Impact Fees Act with respect to the Impact Fee Facilities Plan, the Impact Fee Analysis, and this Impact Fee Ordinance (this "Ordinance").

1.2. Growth and development activities in Highland City will create additional demands on its infrastructure, facilities, and services. The facility improvement requirements which are analyzed in the Impact Fee Facilities Plan and the Impact Fee Analysis are the direct result of the 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 facilities needed to serve the growth and development activity.

1.3. Impact fees are necessary to achieve an equitable allocation to 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 Ordinance, the Council has taken into consideration, and in certain situations will consider on a case-by- case basis in the future, the future capital facilities and needs of Highland City, the capital financial needs of Highland City which are the result of Highland City's future facilities' needs, the distribution of the burden of costs to different properties within Highland City based on the use of park and recreational facilities of Highland City by such properties, the financial contribution of those properties and other properties similarly situated in Highland City at the time of computation of the required fee and prior to the enactment of this Ordinance, all revenue sources available to Highland City, and the impact on future facilities that will be required by growth and new development activities in Highland City.

1.5. The provisions of this Ordinance shall be liberally construed in order to carry out the purpose and intent of the Council in establishing the impact fee program.

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 Ordinance.

2.2. "Service Area" shall mean the entire geographic areas contained within the City's boundaries, as the same may be modified from time to time.

2.3. "Project Improvement" does not mean system improvement and includes, but is not limited to, those projects identified in the plans for the benefit of growth.

2.4. "Utah State Impact Fees Act" shall mean Title 11, Chapter 36a, Utah Code Annotated or its successor state statute if that title and chapter is renumbered, recodified, or amended.

Section 3. Adoption.

The Council hereby approves and adopts the Impact Fee Analysis, the Impact Fee Facilities Plan, corresponding fee schedules, and the analyses reflected therein. The Council hereby reaffirms the continued applicability of the 2020 Impact Fee Plan and Analysis, except to the extent the 2020 Impact Fee Plan and Analysis is modified, updated, and amended by the Impact Fee Analysis and the Impact Fee Facilities Plan. No portion of the 2020 Impact Fee Plan and Analysis not expressly addressed and amended by the Impact Fee Analysis and Impact Fee Facilities Plan shall be repealed by this Ordinance. All such documents and information are incorporated herein by reference and adopted as though fully set forth herein.

Section 4. Impact Fee Calculations.

4.1. Impact Fees. The Impact Fee shall be calculated as set forth in the Impact Fee Analysis, subject to the additional calculations set forth herein.

4.2. Developer Credits/Developer Reimbursements. A developer, including a school district or charter school, may be allowed a credit against or 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 Highland 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 improvements provided by the developer if the facilities are system improvements to the respective utilities, or are dedicated to the public and offset the need for an identified future improvement.

4.3. Adjustment of Fees. The Council may adjust either up (but not above the maximum allowable fee) or down the standard impact fees at the time the fee is charged in order to respond to an unusual circumstance in specific cases and to ensure that the fees are imposed fairly. The Council may adjust the amount of the fees to be imposed if the fee payer submits

studies and data clearly showing that the payment of an adjusted impact fee is more consistent with the true impact being placed on the system.

4.4. Impact Fee Accounting. Highland City shall establish a separate interest-bearing ledger account for the cash impact fees collected pursuant to this Ordinance. Interest earned on such account shall be allocated to that account.

(a) Reporting. At the end of each fiscal year, Highland City shall prepare a report generally showing the source and amount of all monies collected, earned and received by the fund or account and of each expenditure from the fund or account. The report shall also identify impact fee revenues by the year in which they were received, the project from which the funds were collected, the capital projects from which the funds were budgeted, and the projected schedule for expenditure and be provided to the State Auditor on the appropriate form found on the State Auditor's Website.

(b) Impact Fee Expenditures. Funds collected pursuant to the impact fees shall be deposited in such account and only be used by the City to construct and upgrade the respective facilities to adequately service development activity or used as otherwise approved by law.

4.5. Refunds. The City shall refund any impact fee paid when:

(a) the fee payer has not proceeded with the development activity and has filed a written request with the Council for a refund within one year after the impact fee was paid;

(b) the fees have not been spent or encumbered within six years of the payment date; and

(c) no impact has resulted.

Section 5. Applicability to Fees Paid Prior to Enactment.

5.1. Any person who paid an impact fee prior to the enactment of this ordinance shall owe the fee in the amount that was then existing at the time of payment, and such fee shall not be affected by this ordinance. The City shall not refund any difference between the fee paid prior to the enactment of this ordinance in cases where the fee has decreased hereunder; neither shall the City charge the difference in the event the fee has increased hereunder.

Section 6. Appeal.

6.1. Any person required to pay an impact fee who believes the fee does not meet the requirements of the law may file a written request for information with the City Council.

6.2. Within two weeks of the receipt of the request for information the City shall provide the person or entity with a copy of the reports and with any other relevant

information relating to the impact fee.

6.3. Any person or entity required to pay an impact fee imposed under this article, who believes the fee does not meet the requirements of law may request and be granted a full administrative appeal of that grievance. An appeal shall be made to the Council within thirty (30) calendar days of the date of the action complained of, or the date when the complaining person reasonably should have become aware of the action.

6.4. The notice of the administrative appeal to the Council shall be filed and shall contain the following information:

- (a) The person's name, mailing address, and daytime telephone number;
- (b) A copy of the written request for information and a brief summary of the grounds for appeal;
- (c) The relief sought.

6.5 The City shall schedule the appeal before the Council no sooner than five (5) days and no later than fifteen (15) days from the date of the filing of the appeal. The written decision of the Council shall be made no later than thirty (30) days after the date the challenge to the fee is filed with the City and shall, when necessary, be forwarded to the appropriate officials for action.

Section 7. Effective Date.

Pursuant to UCA Section 11-36a-401, this Ordinance shall take effect 90 days after the day on which it is approved.

Kurt Ostler, Mayor

ATTEST:

Stephannie Cottle, City Recorder



CITY COUNCIL AGENDA REPORT

ITEM #4

DATE: May 16, 2023
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Fences
TYPE: **DEVELOPMENT CODE UPDATE (LEGISLATIVE)**

PURPOSE:

The City Council will continue and complete a public hearing to consider a proposal by Highland City Staff to amend Chapter 3-612 Fences, Retaining Walls, Theme and Screen Walls in the Development Code relating to municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors. The City Council will take appropriate action.

PRIOR COUNCIL DIRECTION:

On April 18, 2023, staff brought a communication item to the City Council regarding the design of municipal fencing. A Councilmember also requested that the Council discuss fencing along trail corridors. Councilmembers directed staff to move forward with an amendment to the fence code to allow chain link fencing for municipal facilities. The Council also directed staff to change the requirement for fences adjacent to trails. They requested that the code only require fences adjacent to trails to have the top two (2) feet be 55% open when the trail corridor is less than 30' rather than 40'.

At the April 18, 2023 City Council meeting, there was also extensive discussion on the Alpine Hwy theme wall. Staff added specific theme wall regulations to address the concerns that were brought up in the meeting relating to the maintenance or reconstruction of theme walls.

At the May 2nd City Council meeting, the City Council opened a public hearing for the proposed amendment, and then moved to continue the public hearing and the review of the item to the next meeting.

STAFF RECOMMENDATION:

Staff recommends the City Council continue and complete the public hearing, accept the findings and **APPROVE** the proposed amendment to Section 3-612 in the Development Code relating to fences and retaining walls.

BACKGROUND:

Staff is proposing an amendment to the fence ordinance as a result of confusion among residents, developers, and staff regarding how fence height is measured. The proposed amendment simplifies this by determining fence height based on the average finished grade

on both sides of the fence. Fences adjacent to parkway detail are treated separately. The parkway detail is currently being updated to require that the fence height be measured from the sidewalk elevation. There has also been confusion for contractors regarding retaining wall height. The Development Code and the International Building Code measure retaining wall height differently. The proposed amendment addresses this issue.

Other changes in the proposed amendment regarding trail corridors and municipal fencing are based on direction given to staff by the City Council.

SUMMARY OF THE REQUEST:

Reorganization

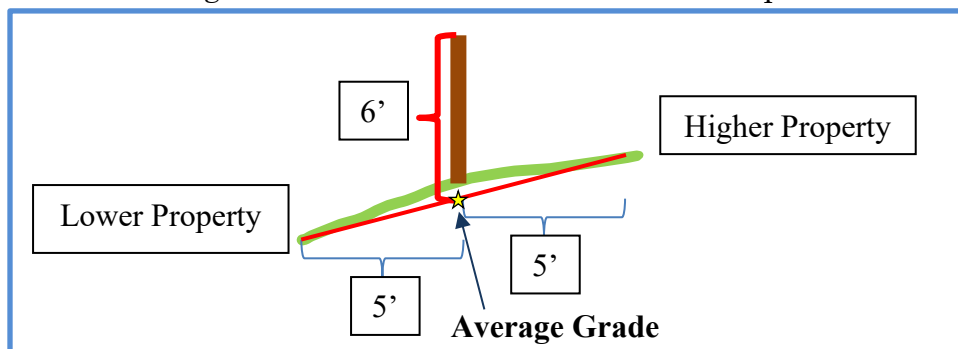
The proposed amendment renames and reorders the subsections within Section 3-612. The subsections are now divided out into the following:

1. Permit Required
2. General
3. Residential Fences
4. Theme Walls
5. Screen Walls
6. Retaining Walls
7. Municipal Fencing and Retaining Walls

Fence Height

Fence height shall be measured from the highest point of the finished grade to the highest point of the fence. “Finished grade” means the *average* finished grade of the property within five (5) feet of either side provided that the fence shall not exceed eight (8) feet in total height as measured from the lowest point within five (5) feet of either side of the fence.

Difference in grade on either side of the fence example:



Fences Adjacent to Trails

The proposed amendment allows for 6' solid fences along trail corridors that are at least 30' wide unless the trail corridor is not visible from two public areas such as a street or park. On trail corridors less than 30' wide, the fence is required to be four (4) feet solid with the two (2) remaining feet at least 55% open.

Theme Walls

Based on discussions during the April 18, 2023 City Council meeting regarding the Alpine Hwy theme wall, staff is proposing to add the following: All theme walls shall be

located on private property and owned by the owner of such private property or by a homeowners' association, unless the City agrees otherwise by way of a condition of approval during the development review process or recorded agreement.

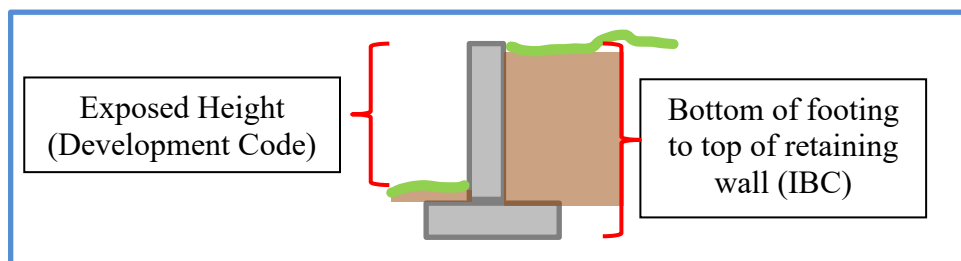
The amendment also adds a section regarding maintenance and reconstruction of theme walls:

- The owner of the theme wall shall maintain the theme wall in reasonably good and safe condition.
- Any reconstruction of the theme wall shall conform to the theme wall design approved as part of the development review process, unless a different design is approved by the City Council.

Retaining Walls

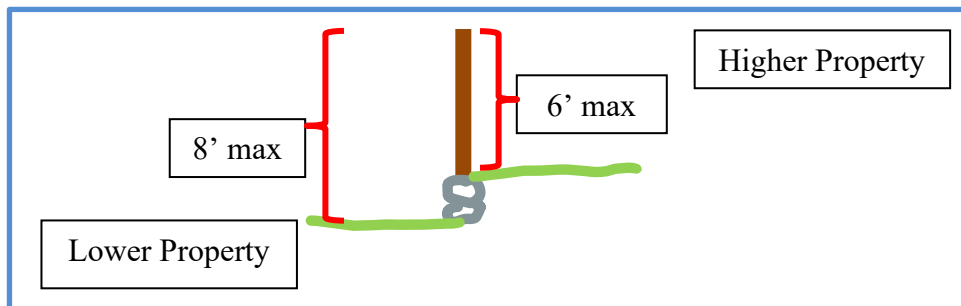
The proposed amendment clarifies that the maximum height for retaining walls is the *exposed* height. The International Building Code (IBC) requires a building permit for retaining walls that exceed four (4) feet in height measured from the bottom of the footing to the top of the retaining wall. This IBC requirement is clarified in the amendment.

Exposed height compared to measured from the bottom of footing example:



Under no condition shall a fence and retaining wall exceed eight (8) feet in height on the same vertical plane measured from the finished grade of the lower property. If a privacy fence that is on top of a retaining wall exceeds eight (8) feet, the fence shall be set back at least four (4) feet from the back side of the retaining wall. Open style fences are permitted to be on the same plane as a retaining wall.

Fence on top of retaining wall example:



Municipal Fencing

The proposed amendment states the following: Fences for Highland City may be chain link. Fences and retaining walls for Highland City may deviate from these standards for the benefit of the public and public resources.

CITIZEN PARTICIPATION:

Notice of the public hearing held at the Planning Commission meeting was posted on the state and city websites and three public places on April 13, 2023.

Notice of the public hearing opened at the City Council meeting on May 2, 2023 and to be continued on May 16, 2023 was posted on the state and city websites and three public places on April 20, 2023. At the time of this report writing, staff has received no public comment.

STAFF REVIEW/FINDINGS:

The proposed amendment meets the following findings:

1. It simplifies how fence height is measured.
2. It clarifies when a building permit for a retaining wall is required according to IBC.
3. It is consistent with the changes requested by the City Council.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on April 25, 2023. A Commissioner asked questions about the theme wall change and who's call it would be to determine what "good" condition means. The City Attorney said it would be the City's. Another Commissioner asked how the City has been able to install chain link fences with it breaking the ordinance. It was explained that the City had done what it felt was best for the City with each project. The purpose of that part of the amendment is to make it clear that the City is an exception.

The Planning Commission then voted 5:0 to recommend APPROVAL of the proposed amendment.

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

MOTION TO APPROVE:

I move that the City Council **APPROVE** the proposed amendments to Section 3-612 of the Development Code relating to municipal fencing, how fence height is measured, and adjusting fence design requirements adjacent to trail corridors.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 3-612 OF THE HIGHLAND CITY DEVELOPMENT CODE RELATING TO MUNICIPAL FENCING, HOW FENCE HEIGHT IS MEASURED, AND ADJUSTING FENCE DESIGN REQUIREMENTS ADJACENT TO TRAIL CORRIDORS AS SHOWN IN FILENAME TA-23-06.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the “Commission”) and the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on April 25, 2023 and

WHEREAS, the City Council held a public hearing on this Ordinance on May 2, 2023 and May 16, 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Section 3-612 Fences, Retaining Walls, Theme And Screen Walls of the Development Code is hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from May 16, 2023 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, May 16, 2023

HIGHLAND CITY, UTAH

Kurt Ostler
Highland City Mayor

ATTEST:

Stephannie Cottle
Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A

3-612 Fences, ~~Retaining Walls, Theme Walls, And Screen Walls, And Retaining Walls~~

1. Permit Required. All fences, ~~screen walls, and~~ theme walls, screen walls, and retaining walls shall be subject to review and approval by the Zoning Administrator. All fences, ~~screen walls, and~~ theme walls, screen walls, and retaining walls shall comply with the conditions set forth herein, unless a more specific standard applies. An application shall contain an application form, any information specifically required by this ordinance, such additional information specified by the Zoning administrator, and when required, a fee. See Section 3-4112(4) for fencing around athletic courts.
- ~~2.1 Fences. For the purposes of this section, fences shall include walls and hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier. In no event shall a fence be installed within the front setback parallel to a street.~~
- ~~a.2.~~ General. All fences, screen walls, and theme walls shall comply with the following regulations, unless a more specific standard applies:
 - a. Fences shall be set back not less than the front setback approved for the subdivision.
 - i. Fences shall not exceed six (6) feet in height.
 - ~~ii.a. Fences may be installed on the side and rear lot lines behind the front setback. The fence shall not exceed six (6) feet in height. A fence along the side lot lines may extend into the front set back up to fourteen (14) feet from the back of curb with a maximum height of three (3) feet.~~
 - b. Fence height shall be measured from the highest point of the finished grade to the highest point of the fence. "Finished grade" means the average finished grade of the property within five (5) feet of either side provided that the fence shall not exceed eight (8) feet in total height as measured from the lowest point within five (5) feet of either side of the fence nearest the fence.
 - ~~iii.c.~~ Fences subject to the parkway detail shall follow location height, and setback requirements as specified therein. All other fences shall follow the requirements set forth in this Chapter.
 - ~~iv. Berms, or other means to raise the elevation of the ground upon which a fence is proposed to be located, shall be included in the measurement of fence height.~~
 - ~~v.d.~~ Fences on or adjacent to ~~R~~retaining walls are subject to Subsection 6 Retaining Walls, considered as part of the fence height.
 - b. When a difference in grade exists on either side of a fence or wall, the height of the fence or wall shall be measured from the height of the higher property grade within five (5) feet of the property line but shall not exceed eight (8) feet in total height as measured from the lower property grade.
3. Residential Fences. For the purposes of this section, fences shall include walls and hedges, and any other combination of plants, shrubs, trees, barriers, structures, or objects that act as a visual or physical screen or barrier within or on any residential lot or parcel. All such fences shall comply with the following regulations in addition to all other applicable regulations set forth in this Chapter: ~~In no event shall a fence be installed within the front setback parallel to a street.~~
 - a. Location

i. Fences may be installed on the side and rear lot lines behind the front setback. The fence shall not exceed six (6) feet in height. A fence along the side lot lines may extend into the front set back up to fourteen (14) feet from the back of curb with a maximum height of three (3) feet.

ii. A fence shall be set back a minimum of fourteen (14) feet from the back of curb on all sides that abut a street. This setback may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

iii. All fences shall not exceed three (3) feet in height in the clear vision area and shall comply with the clear view area requirements as defined in Section 3-610 Clear View of Intersecting Streets.

iv. In no event shall a fence be installed within the front setback parallel to a street.

b. Materials

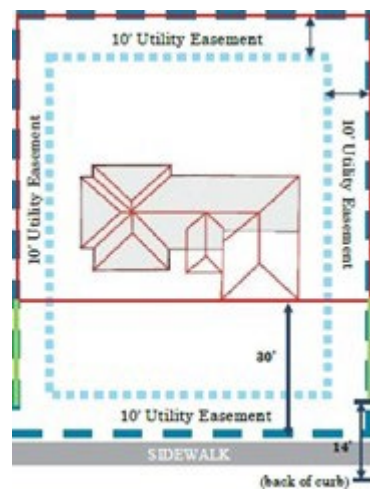
i. Permitted: Vinyl, wood, open style metal fencing with the appearance of wrought iron, precast concrete, concrete, steel cable, gabion, stone, masonry, and hog/horse wire within wooden or metal beams and posts. Hog/horse wire without beams are permitted for animal enclosures required for large animals.

ii. Prohibited: Chain link and all other materials not listed above are prohibited.

c. Specific lot considerations

i. Typical Lot

i.

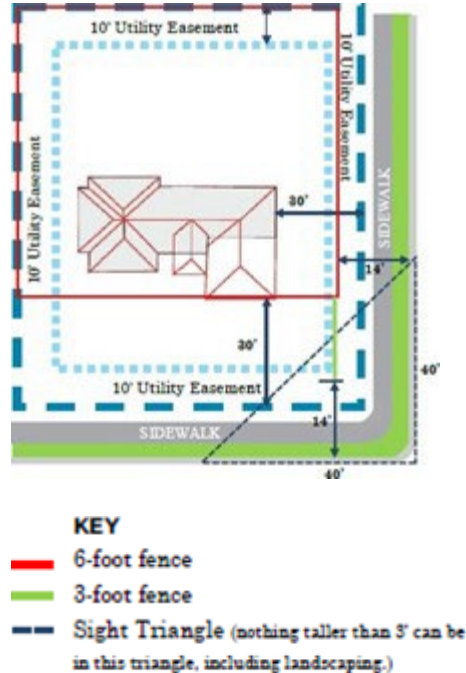


KEY

- 6-foot fence
- 3-foot fence

(1) The side setback along the street may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

ii. Corner Lot



- (1) The side setback along the street may be reduced to be on the property line if the fence is 66% open and is at least six (6) feet from the back of the curb.

iii. Lots adjacent to trails or open space

- (1) Open style fences along the side or rear lot lines that are adjacent to a trail or open space are permitted. The Solid or closed style fences along the side or rear lot lines that is adjacent to a trail or open space must be a maximum of four (4) feet solid with at least the top two (2) remaining feet at least 55% open in either of the following circumstances:
 - (A) The trail or open space area is less than thirty (30) forty (40) feet in width and is not immediately adjacent to a public street.
 - (B) The trail or open space corridor is wider than thirty (30) forty (40) feet but cannot be seen from two public areas such as a street or park.
- (2) The Zoning Administrator may approve an alternative fence design for either circumstance described above based on the following factors:
 - (A) The proposed alternative meets the intent of this section; and,
 - (B) There are special circumstances attached to the property that do not generally apply to other properties in the same subdivision; and,

(C) The natural visibility or observation of the trail or open space is not diminished if the proposed alternative is constructed on all the lots adjacent to the trail or open space.

iv. Highways/arterial lots

(1) On all state highways or arterial streets, fences shall be set back a minimum of thirty (30) feet from the back of curb or as required by the parkway detail. This 30-foot restriction is applicable to fences along the front, side, and rear property lines that abut the highway or arterial street, no matter the height.

v. Lots with side or rear property lines adjacent to a golf course facility

(1) The fence may be a maximum of fifteen (15) feet in height. The materials of this fence are limited to open style netting with black support posts or beams no closer than five (5) feet apart.

3.1. Retaining Walls

~~a. A retaining wall within the front setback shall be a minimum of ten (10) feet from the front property line and shall not exceed four (4) feet in height. The maximum height of retaining wall in any other location is six (6) feet.~~

~~i. Retaining walls for daylight basements or window wells have a maximum height of eleven (11) feet.~~

~~b.a. Retaining walls shall not be placed any closer to another retaining wall than at a ratio of one foot horizontal to one foot vertical height of the wall.~~

~~e.a. Under no condition shall a fence and retaining wall exceed eight (8) feet in height on the same vertical plane. If a privacy fence that is on top of a retaining wall would exceed eight (8) feet, it shall be set back at least four (4) feet from the back side of the retaining wall. Open style fences are permitted to be on the same plane as a retaining wall.~~

~~d.a. Retaining walls shall not be permitted within public utility easements without city approval, and no approval will be granted where a storm drain, culinary water line, pressurized irrigation line, or sewer line is installed.~~

~~e.a. Retaining walls require a building permit if it exceeds four (4) in height. The submittal for the building permit must include:~~

~~i. a stamped engineered plan from the licensed engineer,~~

~~ii.i. a drainage plan which provides for containment of run-off water on site or discharged to a City approved location,~~

~~iii.i. plans for a conduit as required by the City Engineer if the retaining wall is to be constructed within the public utility easement where utilities do not exist. The property owner shall be financially responsible for the removal or reconstruction of a retaining wall in a public utility easement if the easement is needed per Utah Law (UCA 54-3-27).~~

4. Theme Walls. A *theme wall* is a wall that is installed along state highways, arterial, and collector streets, and open space areas as determined during the development review process.

a. Any developer of a residential subdivision shall provide a six (6) foot theme wall adjacent to all arterial and collector streets, open space areas, and trails except as provided herein. Gates connecting to open space areas may be allowed in theme

walls if approved as part of the development review process. All theme walls shall be located on private property and owned by the owner of such private property or by a homeowners' association, unless the City agrees otherwise by way of a condition of approval during the development review process or recorded agreement.

b. Materials and Design

i. Permitted Materials: Precast concrete, concrete, masonry block, brick, stone, or a similar solid, durable material of equal or better quality. Accent landscaping and design elements such as stone veneer, brick, planters, marble, rock, decorative pilasters, decorative caps, stone or tile insets, or other significant design features are also permitted.

ii. Prohibited: Vinyl, wood, chain link.

iii. All theme walls between different uses shall provide columns every fifty(50) feet to provide variety and visual interest. Said columns shall extend a minimum of six (6) inches from the face of the theme wall and be architecturally enhanced as required above.

c. Maintenance and Reconstruction

i. The owner of the theme wall shall maintain the theme wall in reasonably good and safe condition.

~~iii.~~ ii. Any reconstruction of the theme wall shall conform to the theme wall design approved as part of the development review process, unless a different design is approved by the City Council.

5. Screen Walls. A *screen wall* is a wall that is installed between different land uses as required in this section or used to screen trash enclosures, loading docks, outdoor storage areas, etc., or as determined during the development review process.

a. The developer of any residential development with a density greater than six (6) units per acre which abut any R-1-40, R-1-30, R-1-20, or A-1 district must provide a screen wall with a minimum height of six (6) feet along the abutting property line.

b. The developer of any nonresidential use that abuts any residential district must provide a screen wall with a minimum height of six (6) feet along the abutting property line. Any loading docks within one hundred (100) feet of a residential district must have a separate eight (8) foot high screen wall of similar materials compatible with the building design to screen the dock areas.

c. All outdoor storage areas shall have a six (6) foot screen wall as required in this section.

d. Materials and Design

i. Permitted: Precast concrete, concrete, masonry block, brick, stone, or a similar solid, durable material of equal or better-quality. Accent landscaping and design elements such as stone veneer, brick, planters, marble, rock, decorative pilasters, decorative caps, stone or tile insets, or other significant design features.

ii. Prohibited: Vinyl, wood, chain link.

iii. If a screen wall is erected as an enclosure, a gate of equal height shall be required in order to secure the enclosure. The gate shall be opaque and shall be compatible with the design of the building(s).

6. Retaining Walls

- a. A retaining wall within the front setback shall be a minimum of ten (10) feet from the front property line and shall not exceed four (4) feet in exposed height. The maximum height of a retaining wall in any other location is six (6) feet exposed height. A retaining wall shall be set back a minimum of fourteen (14) feet from the back of curb on all sides that abut a street.
 - b. Retaining walls for daylight basements or window wells have a maximum exposed height of eleven (11) feet.
 - c. Retaining walls shall not be placed any closer to another retaining wall than at a ratio of one foot horizontal to one foot vertical height of the wall.
 - d. Under no condition shall a fence and retaining wall exceed eight (8) feet in height on the same vertical plane measured from the finished grade of the lower property. If a privacy fence or other opaque, non-open style fencing –that is on top of a retaining wall would exceed eight (8) feet measured from the finished grade of the lower property, ~~it the fence~~ shall be set back at least four (4) feet from the back side of the retaining wall. Open style fences are permitted to be on the same plane as a retaining wall.
 - e. Retaining walls shall not be permitted within public utility easements without city approval, and no approval will be granted where a storm drain, culinary water line, pressurized irrigation line, or sewer line is installed.
 - f. Retaining walls require a building permit if it exceeds four (4) feet in height measured from the bottom of the footing to the top of the retaining wall. The submittal for the building permit must include:
 - i. a stamped engineered plan from ~~the~~ a licensed engineer,
 - ii. a drainage plan which provides for containment of run-off water on site or discharged to a City approved location,
 - iii. plans for a conduit as required by the City Engineer if the retaining wall is to be constructed within the public utility easement where utilities do not exist. The property owner shall be financially responsible for the removal or reconstruction of a retaining wall in a public utility easement if the easement is needed per Utah Law (UCA 54-3-27).
7. Municipal Fencing and Retaining Walls. Fences for Highland City may be chain link. Fences and retaining walls for Highland City may deviate from the standards set forth in this Chapter for the benefit of the public and public resources.



CITY COUNCIL AGENDA REPORT

ITEM #5

DATE: May 16, 2023
TO: Honorable Mayor and Members of the City Council
FROM: Jay Baughman, Assistant City Administrator and Community Development Director
SUBJECT: **RESOLUTION:** Personnel Policy Update Concerning Employees Serving As Elected Officials
TYPE: **GENERAL CITY MANAGEMENT**

PURPOSE:

The City Council will hold a public meeting to consider amendments to the personnel policies concerning a Highland City employee running for and being elected to the position of a Highland City elected office. The Council will take appropriate action.

STAFF RECOMMENDATION:

Staff recommends approving the proposed language for inclusion in the Highland City Personnel Policy Manual.

PRIOR COUNCIL DIRECTION:

Not applicable.

BACKGROUND:

City personnel policies already outline the rules regarding employees participating in political activities. As the timeframe for candidate signups approaches, staff felt it would be best to further clarify regulations surrounding any employee who may wish to run for and be elected to an elected position in the City.

Utah State Code UCA 10-3-1108 states (**emphasis added**):

“(3) A municipal employee who has filed a declaration of candidacy may:

- (a) be given a leave of absence for the period between the primary election and the general election; and
- (b) use any vacation or other leave available to engage in campaign activities.

(4) If a municipal officer or employee is elected to a public office, the employee may:

- (a) be given a leave of absence without pay for the time during which the employee receives compensation for service in the public office; and**
- (b) use any vacation or other leave available to serve in the public office.”**

Staff have drafted the following language to include in the Highland City Employee Manual to explain clearly what course of action the City will take in the event that an employee is elected to a Highland City elected office (underlined section only):

12. POLITICAL ACTIVITY

- A. An employee shall not be encouraged or coerced to support a political activity, whether funds or time are involved.
- B. An employee shall not engage in political activity during work hours, unless on approved leave.
- C. An employee shall not use Highland City owned equipment, supplies or resources, and other attendant expenses (i.e., paper, email, phones) when engaged in political activity.
- D. An employee shall not discriminate, in favor of or against, any person or applicant for employment based on political activities.
- E. An employee shall not use the employee's title or position while engaging in political activity.

13. CITY EMPLOYEES AS HIGHLAND CITY ELECTED OFFICIALS

Utah state law allows individuals employed by a city to run for elected office. To avoid a conflict of interest, if an individual is elected to a position within the city that that employs them, cities are allowed to place such an employee on a leave of absence.

While campaigning, all rules and restrictions listed in the previous section above apply. If a Highland City employee is elected to position in the city, such as City Council Member, that employee will be placed on an unpaid leave of absence for the duration that they hold that elected office. Neither will that employee be subject to receive fringe benefits (medical, dental, etc.) from the City under their non-elected position.

FISCAL IMPACT:

None

MOTION TO APPROVE:

I move that City Council approve the proposed language regarding Highland City employees who are elected to Highland City office for inclusion in the Highland City Personnel Policy Manual.

ATTACHMENTS:

- 1) Proposed Personnel Policy Language
- 2) Resolution

12. POLITICAL ACTIVITY

- A. An employee shall not be encouraged or coerced to support a political activity, whether funds or time are involved.
- B. An employee shall not engage in political activity during work hours, unless on approved leave.
- C. An employee shall not use Highland City owned equipment, supplies or resources, and other attendant expenses (i.e., paper, email, phones) when engaged in political activity.
- D. An employee shall not discriminate, in favor of or against, any person or applicant for employment based on political activities.
- E. An employee shall not use the employee's title or position while engaging in political activity.

13. CITY EMPLOYEES AS HIGHLAND CITY ELECTED OFFICIALS

Utah state law allows individuals employed by a city to run for elected office. To avoid a conflict of interest, if an individual is elected to a position within the city that that employs them, cities are allowed to place such an employee on a leave of absence.

While campaigning, all rules and restrictions listed in the previous section above apply. If a Highland City employee is elected to position in the city, such as City Council Member, that employee will be placed on an unpaid leave of absence for the duration that they hold that elected office. Neither will that employee be subject to receive fringe benefits (medical, dental, etc.) from the City under their non-elected position.

**A RESOLUTION AMENDING THE HIGHLAND CITY PERSONNEL POLICIES
AND PROCEDURES**

WHEREAS, the Highland City Council is authorized, pursuant to Utah Code § 10-3-1103 and Utah Code § 10-3-717, to adopt personnel policies and procedures to govern Highland City officers, staff, and other personnel;

WHEREAS, the Highland City desires to update its existing personnel policies to clarify the expectations surrounding an employee who may wish to run for elected office in Highland City;

NOW THEREFORE, BE IT RESOLVED by the Highland City Council as follows:

SECTION 1. The City Council approves and adopts the amendments to the Highland City Personnel Policies and Procedures Manual, attached

SECTION 2. Only those portions of the Highland City Personnel Policies and Procedures Manual expressly described and set forth herein are amended; all other sections, policies, and provisions of the Personnel Policies and Procedures Manual not expressly amended herein remain in effect.

SECTION 3. All other versions of the Highland City Personnel Policies and Procedures Manual are hereby superseded and replaced.

SECTION 4. This resolution shall take effect immediately upon adoption.

RESOLVED AND PASSED BY THE CITY COUNCIL OF HIGHLAND CITY, UTAH, this _____ day of _____, 2023.

Kurt Ostler, Mayor

ATTESTED:

Stephannie Cottle, City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐



CITY COUNCIL AGENDA REPORT

ITEM #6a

DATE: May 16, 2023
TO: Honorable Mayor and Members of the City Council
FROM: Kellie Smith, Planner & GIS Analyst
SUBJECT: **PUBLIC HEARING/ORDINANCE:** Text Amendment – Storm Drainage
TYPE: **DEVELOPMENT CODE UPDATE (LEGISLATIVE)**

PURPOSE:

The City Council will continue and complete a public hearing to consider a proposal by Highland City Staff to amend Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way. The City Council will take appropriate action.

PRIOR COUNCIL DIRECTION:

At the April 18th City Council meeting, a communication item was presented to the Council by staff regarding a storm drainage text amendment that would be brought to the City Council at a future meeting. The Council did not express any concerns about the amendment.

At the May 2nd City Council meeting, the City Council opened the public hearing for the proposed amendment, and then moved to continue the public hearing and the review of the item to the next meeting.

STAFF RECOMMENDATION:

Staff recommends the City Council continue and complete the public hearing, accept the findings and **APPROVE** the proposed amendment relating to storm drainage being directed toward the right-of-way.

BACKGROUND:

The City has had several developments recently that have required parkway detail. The General Plan requires parkway detail along arterials and major collectors (each road to have parkway detail is identified in the General Plan). It has come to staff's attention that the parkway detail does not specify the slopes at which the parkway detail should be graded. The Engineering and Public Works Departments prefer to have any City-owned or maintained property be set at a 2% slope toward the curb and gutter on the adjacent public right-of-way. The purpose is to ensure that all drainage on City property be directed toward the road rather than spilling onto adjacent private property.

SUMMARY OF THE REQUEST:

The proposed amendment adds the following requirements for storm drainage in new developments:

- Applicants and Subdividers shall ensure that drainage within or directed to natural watercourses does not cause an increase in frequency of flow or peak flow to the downstream facilities.
- All drainage shall be contained within a given property or routed to an approved drainage facility.
- Approved drainage facilities that are not owned and maintained by Highland City shall be established with ownership, insurance, and maintenance responsibilities prior to approval by the City Engineer.
- All privately owned storm-water facilities shall be maintained in accordance with long-term storm water plans and maintenance agreements.
- Fencing or walls associated with the Parkway Detail or other fencing directly adjacent to public property along public rights-of-way shall be set such that drainage flows at a minimum of 2-percent slope from the base of the fence perpendicularly to the curb and gutter on the adjacent public right-of-way.

CITIZEN PARTICIPATION:

Notice of the public hearing held at the Planning Commission meeting was posted on the state and city websites and three public places on April 13, 2023.

Notice of the public hearing opened at the City Council meeting on May 2, 2023 and to be continued on May 16, 2023 was posted on the state and city websites and three public places on April 20, 2023. At the time of this report writing, staff has received no public comment.

STAFF REVIEW/FINDINGS:

The proposed amendment meets the following findings:

1. It is consistent with the current practices and desires of the Engineering and Public Works Departments.
2. It conforms to state law requirements regarding drainage.
3. The amendment is needed in order to enforce a 2% slope toward public rights-of-way.

PLANNING COMMISSION ACTION:

The Planning Commission held a public hearing on April 25, 2023. The Commissioners discussed the goal of not being liable for drainage on private property. The Planning Commission then voted 5:0 to recommend APPROVAL of the proposed amendment.

FISCAL IMPACT:

This action will not have a financial impact on this fiscal year's budget expenditures.

MOTION TO APPROVE:

I move that the City Council **APPROVE** the proposed amendments to Section 5-9-105 Storm Drainage in the Development Code to update regulations regarding drainage being directed toward the right-of-way.

ATTACHMENTS:

1. Ordinance

ATTACHMENT 1:

AN ORDINANCE OF THE HIGHLAND CITY COUNCIL AMENDING SECTION 5-9-105 STORM DRAINAGE IN THE HIGHLAND CITY DEVELOPMENT CODE TO UPDATE REGULATIONS REGARDING DRAINAGE BEING DIRECTED TOWARD THE RIGHT-OF-WAY AS SHOWN IN FILENAME TA-23-05.

WHEREAS, all due and proper notices of public hearings and public meetings on this Ordinance held before the Highland City Planning Commission (the “Commission”) and the Highland City Council (the “City Council”) were given in the time, form, substance and manner provided by Utah Code Section 10-9a-205; and

WHEREAS, the Planning Commission held a public hearing on this Ordinance on April 25, 2023 and

WHEREAS, the City Council held a public hearing on this Ordinance on May 2, 2023 and May 16, 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE Highland City Council as follows:

SECTION 1: **ADOPTION** Chapter 6 Guarantee of Performance of the Development Code is hereby amended as shown on “Exhibit A” attached hereto and incorporated herein.

SECTION 2: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from May 16, 2023 and after the required approval and publication according to law.

PASSED AND ADOPTED by the Highland City Council, May 16, 2023

HIGHLAND CITY, UTAH

Kurt Ostler
Highland City Mayor

ATTEST:

Stephannie Cottle

Highland City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A

5-9-105 Storm Drainage

1. Site grading shall be performed taking into consideration the drainage patterns of adjacent improved and unimproved property and treating upstream areas, where appropriate, as though fully improved.
2. In every subdivision, provision shall be made for the satisfactory drainage of storm water by means of underground storm sewer pipes, and/or surface drainage ~~ditches~~wales. Storm water lines may not be connected or constructed so as to flow into sanitary sewers. Major natural drainage courses shall not be appreciably altered from their natural condition except for stabilization and erosion control. Applicants and Subdividers shall be responsible for the drainage of after-development storm water to a point acceptable under the Flood Control and City Storm Drainage Ordinance. Applicants and Subdividers shall ensure that drainage within or directed to natural watercourses does not cause an increase in frequency of flow or peak flow to the downstream facilities.
3. Storm water drains shall be installed as shown on the subdivision development plans. Protective grates and coverings to pipe inlets shall be constructed at the onset of development.
4. All drainage shall be contained within a given property or routed to an approved drainage facility.
5. Approved drainage facilities that are not owned and maintained by Highland City shall be established with ownership, insurance, and maintenance responsibilities prior to approval by City Engineer.
6. All privately owned storm-water facilities shall be maintained in accordance with long-term storm water plans and maintenance agreements.
- 3-7. Fencing or walls associated with the Parkway Detail or other fencing directly adjacent to public property along public rights-of-way shall be set such that drainage flows at a minimum of 2-percent slope from the base of the fence perpendicularly to the curb and gutter on the adjacent public right-of-way.



CITY COUNCIL AGENDA REPORT

ITEM #6b

DATE: May 16, 2023
TO: Honorable Mayor and Members of the City Council
FROM: Rob Patterson, City Attorney
SUBJECT: **ORDINANCE:** City Records Code Update
TYPE: **GENERAL CITY MANAGEMENT** Legislative

PURPOSE:

The City Council will consider an amendment to the Highland City Municipal Code Title 2, Chapter 28, City Records. The Council will take appropriate action.

STAFF RECOMMENDATION:

Staff recommends City Council approve the ordinance amending the Highland City Municipal Code Chapter 2.28 City Records.

PRIOR COUNCIL DIRECTION:

On February 1, 2022, the City Council reviewed a proposed update to the City's code regarding the management of City Records. After discussing the proposed code updates, the Council indicated support for the update to city code, but expressed a desire for additional time to review the proposed changes. On April 18, 2023, the City Council, as part of a discussion item, directed staff to bring the code updates back for review and to adopt the state retention schedules for City records, subject to staff's eventual preparation of City-specific retention schedules.

BACKGROUND:

Utah State Code, Title 63G, Chapter 2, provides mandatory state standards regarding the right of the public to access government records and the responsibility of government entities, including Highland City, regarding record access, maintenance, and retention. That code also allows municipalities to enact or establish codes or policies regarding fees, appeals from denials of fee waivers or access to record, and policies regarding the retention of public records.

Highland City's code (Municipal Code 2.28) and policies regarding government records were adopted in 1992 and have not been substantively or officially updated since then. This code amendment will bring the City's code and records retention policy up-to-date with current state standards and city practices.

The proposed code changes streamline the City's code to meet current state law and City practices:

- (a) Removed redundant language regarding definitions and record classification, as these are governed by state law
- (b) Incorporated state law for procedures and timeframes for individuals who submit records requests and for the City's response to those requests
- (c) Updated the appeal process to clarify that appeals are heard by the city's "chief administrative officer"—the city administrator—rather than the city council, as required by state code
- (d) Updated fee provisions to match the City's current practice and to clarify how the City will handle fees and fee waiver requests to ensure that people do not submit multiple requests to avoid fees, to clarify that fee waivers are granted for only up to 2 hours of staff time except in extraordinary circumstances, and to establish guidelines for when a request is in the public interest, which are:
 - 1. Whether the individual requesting the record is the subject of the record; or the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.
 - 2. Whether the records relate to issues that impact all city residents, such as utilities or taxes;
 - 3. Whether the issue has been published or reported in the news in the previous six months;
 - 4. Whether the issue has been on a public meeting agenda of a Highland City public body in the previous six months; and
 - 5. Whether the requester is a member of or affiliated with a media or news outlet or requests a record to obtain information for a story or report for publication or broadcast to the general public.

- (e) Matched violation/penalty section to state code

The City's retention schedule policy—the policy that determines how long different kinds of records are kept on file—is addressed in the updated code. The default retention schedules will be those established by the State Archives, unless the City adopts separate or new schedules. No City-specific retention schedules are currently proposed. The Council has directed staff to work on those schedules after consulting with all city departments and bring the schedules back to Council for review at a later date.

FISCAL IMPACT:

There is no fiscal impact.

MOTION TO APPROVE:

I move that City Council approve the ordinance amending the Highland City Municipal Code Chapter 2.28 City Records.

ATTACHMENTS:

1. Ordinance with Revised Chapter 2.28
2. Red-Line Ordinance Showing Proposed Changes to Current Code

**AN ORDINANCE OF HIGHLAND CITY AMENDING HIGHLAND MUNICIPAL CODE
TITLE 2, CHAPTER 28, RELATED TO THE ACCESS AND MANAGEMENT OF
GOVERNMENT RECORDS**

WHEREAS, Title 63G, Chapter 2, of the Utah Code, as amended, provides state standards and requirements regarding the retention, maintenance, and right of the public to access government records;

WHEREAS, Highland City previously adopted Title 2, Chapter 28, of the Highland Municipal Code, "City Records," in 1992, which provides City-specific standards for government records;

WHEREAS, the City Council desires to update and amend Title 2, Chapter 28, to align with current state law and best practices; and

WHEREAS, the City Council finds that the amendment of Highland Municipal Code 2.28 and adoption of this Ordinance is in the best interest of the residents of Highland.

NOW THEREFORE, BE IT ORDAINED by the City Council of Highland City that:

SECTION 1. The City Council hereby repeals Highland Municipal Code Title 2, Chapter 28 in its entirety.

SECTION 2. The City Council hereby adopts Highland Municipal Code Title 2, Chapter 28, as shown in the attached Exhibit A, which exhibit is incorporated herein by referenced.

SECTION 3. Upon the passage of this ordinance, the City Recorder of Highland City is hereby directed to file a copy of this ordinance with the Utah Division of Archives and Records Service.

SECTION 4. Effective Date. This ordinance shall become effective immediately upon the date of passage and publication, as allowed by law.

ADOPTED by the City Council of Highland City, Utah this 16th day of May, 2023.

HIGHLAND CITY, UTAH

Kurt Ostler
Mayor

ATTEST:

Stephannie Cottle
City Recorder

COUNCIL MEMBER	YES	NO
Timothy A. Ball	☐	☐
Brittney P. Bills	☐	☐
Sarah D. Petersen	☐	☐
Kim Rodela	☐	☐
Scott L. Smith	☐	☐

EXHIBIT A
Amended and Revised Highland City Municipal Code, Chapter 2.28

Chapter 2.28 CITY RECORDS

- 2.28.010 Short Title
- 2.28.020 Purpose and Intent
- 2.28.030 Definitions
- 2.28.040 Right of Public Access
- 2.28.050 Fees
- 2.28.060 Fee Waivers
- 2.28.070 Procedures for Access
- 2.28.080 Public Benefit
- 2.28.090 Denials
- 2.28.100 Records Classification
- 2.28.110 Records Retention
- 2.28.120 Segregation of Records
- 2.28.130 Appeals
- 2.28.140 Request to Amend a Record
- 2.28.150 Violation; Penalty

2.28.010 Short Title

This chapter is known as the "Highland City Government Records Access and Management Act."

2.28.020 Purpose and Intent

- A. In enacting this act, the city recognizes two fundamental constitutional rights:
 - 1. The right of privacy in relation to personal data gathered by the city; and
 - 2. The public's right of access to information concerning the conduct of the public's business.
- B. It is the intent of the city to:
 - 1. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records; and
 - 2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards;
 - 3. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this chapter.

2.28.030 Definitions

“Act” means the Utah Government Records Access and Management Act, Title 63G, Chapter 2, of the Utah Code, as amended.

“Records officer” means the city recorder unless another individual is appointed by the mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records. Unless otherwise specified, the records officer, or their designee, shall carry out the city’s obligations under this chapter and the Act.

Other terms used in this chapter shall have the meaning set forth in the Act unless a different meaning is specified or required by the context of the term.

2.28.040 Right of Public Access

Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the records request process and the payment of costs and fees set forth in the City’s fee schedule, this chapter, and the Act.

- A. All records are public unless otherwise expressly provided by this chapter or state or federal law or regulation.
- B. The following records are not public:
 - 1. Records that are appropriately classified private, controlled, or protected as allowed and defined by the Act; and
 - 2. Records to which access is restricted pursuant to the Act, court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
- C. In determining a person’s right to access a record, including the right to access a private, controlled, protected, or otherwise non-public or restricted record, the city and the requester shall follow the requirements and regulations set forth in this chapter and the Act.

2.28.050 Fees

- A. The city shall charge a fee to cover the city's actual cost of responding to a records request, in accordance with the following requirements:
 - 1. The fee shall cover the city's actual cost for:
 - a. Compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

- b. Staff time for search, retrieval, and other direct administrative costs for complying with a request; and
 - c. For a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users.
- 2. An hourly charge for the cost of staff time in responding to a request shall not exceed the salary of the lowest paid employee who, in the discretion of the records officer, has the necessary skill and training to perform the request.
- 3. Costs and fees other than the cost of staff time related to responding to a record request and to providing a record shall be as set by resolution by the city council.
- 4. The fee shall not include the following:
 - a. The first 15 minutes of staff time spent responding to a records request, unless the Act allows for such time to be counted;
 - b. Costs for reviewing a record to determine whether the record is subject to disclosure; or
 - c. Costs for inspecting a record.
- B. In determining the fee to be charged, the city may consider multiple requests by the same requester within a short period of time as a single request if it appears that the requester is submitting multiple requests primarily to avoid the fees that would be charged if the requests were handled as a single request.
- C. The city may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed \$50 or the requester has not paid fees from previous requests. The city may also charge interest on any unpaid obligation, as set by resolution. Any costs above prepayment will be due prior to requester receiving the record(s). Any prepaid amount in excess of fees due shall be returned to the requester.

2.28.060 Fee Waivers

- A. The city may grant a waiver of fees to fulfill a record request when it determines that:
 - 1. Releasing the record primarily benefits the public rather than a person;
 - 2. The individual requesting the record is the subject of the record; or
 - 3. The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

- B. Except in extraordinary cases, as determined by the records officer, a fee waiver shall operate to waive only the cost of the first two hours of staff time and the other direct costs to the City involved in responding to a request. Staff time beyond two hours that is required to respond to a request shall be charged as set forth herein regardless of the fee waiver.
- C. The burden of demonstrating the need for a fee waiver shall be on the requester, and a person who believes that there has been an unreasonable denial of a fee waiver by the city may appeal the waiver denial in the same manner as denial of access to a record.

2.28.070 Procedures For Access

- A. The process and timeframes for a person to request access to records and for the city to respond to such requests shall be as set forth in the Act.
- B. A person making a request for a record shall furnish the records officer with a written request containing their name, mailing address, email, daytime telephone number, and a description of the records requested that identifies the records with reasonable specificity.
- C. If person claims the right to access a private, controlled, protected, or otherwise non-public record due to the person's identity or status, the person shall be required to provide information and documentation establishing the person's identity or status. Such information may include copies or proof of government-issued identification, powers of attorney, incumbency certificates, and other appropriate documentation.
- D. A person making a request for a record shall indicate whether they wish to receive records and other information and notices related to their request by email, mail, or some other method.
- E. In response to a request, the city is not required to:
 - 1. create a record;
 - 2. compile, format, manipulate, package, summarize, or tailor information;
 - 3. provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
 - 4. fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or
 - 5. fill a person's records request if:
 - a. the record requested is publicly accessible online or included in a public publication or product produced by the city; and

- b. the city specifies to the requester where the record is accessible online or provides the requester with the public publication or product and specifies where the record can be found in the public publication or product.
- F. If the requester requests and the city chooses to create a record, compile, format, manipulate, package, summarize, or tailor information, or provide a record in a particular format, medium, or program as requested by a person, the requester shall pay all of the city's actual costs involved with such work and shall not be entitled to any waiver of fees.

2.28.080 Public Benefit

In determining whether release of a record primarily benefits the public rather than a person for purposes of this chapter and the Act, the city may consider:

- A. Whether the records relate to issues that impact all city residents, such as utilities or taxes;
- B. Whether the issue has been published or reported in the news in the previous six months;
- C. Whether the issue has been on a public meeting agenda of a Highland City public body in the previous six months; and
- D. Whether the requester is a member of or affiliated with a media or news outlet or requests a record to obtain information for a story or report for publication or broadcast to the general public.

2.28.090 Denials

- A. If the city denies the records request in whole or part, including if the city denies the request for a fee waiver, the city shall provide a written notice of denial to the requester either in person or by sending the notice to the requester's physical or electronic address, as specified in the request.
- B. The notice of denial shall contain the following information:
 - 1. If the denial includes a denial of a request for a fee waiver, a statement that the waiver was denied and a short description of the reasons for such denial, with citations to this chapter, the Act, or other relevant authority;
 - 2. A description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled, protected, or otherwise non-public or restricted information or records;
 - 3. Citations to the provisions of this chapter, the Act, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled, protected or otherwise non-public or restricted information or records;

4. A statement that the requester has the right to appeal the denial to the city administrator; and
 5. A brief summary of the appeals process, the time limits for filing an appeal, and the name and business address of the city administrator.
- C. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

2.28.100 Records Classification

- A. The city shall:
1. Evaluate all record series that it uses or creates;
 2. Designate those record series as provided by this chapter;
 3. Report the designation of its record series to the state archives.
- B. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.
- C. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.
- D. If more than one provision of this chapter or the Act could govern the classification of a record, the city shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.

2.28.110 Records Retention

The city council shall establish a retention schedule for each record series. Where a specific retention schedule for a record series has not been established by the city, the city shall follow the general retention schedules promulgated by the Utah Division of Archives and Records Service. The city shall report all adopted retention schedules to the state archives.

2.28.120 Segregation of Records

Notwithstanding any other provision in this chapter, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the city:

- A. Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and

- B. May deny access to information in the record by segregation, editing, redaction, or other appropriate means if the information is exempt from disclosure to the requester, issuing a notice of denial for the withheld or segregated information.

2.28.130 Appeals

A. Appeal process:

1. Any person aggrieved by the city's access or fee waiver determination under this chapter, including a person not a party to the city's proceeding who is an interested party affected by an access determination, may appeal the determination to the city administrator by filing a written notice of appeal with the records officer within 30 days after the city sends the notice of denial or the request is considered or deemed to be denied.
2. If the city claims extraordinary circumstances and specifies the date when the records will be available, and if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within thirty days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent.
3. A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty days after receiving the notice of appeal, instead of the timeframes set forth below.

B. The notice of appeal shall contain the following information:

1. The petitioner's name, mailing address and daytime telephone number;
2. The relief sought; and
3. A short statement of facts, reasons, and legal authority in support of the appeal.

C. Appeals Involving Business Confidentiality

1. If the appeal involves a record that is the subject of a business confidentiality claim under the Act, the records officer shall:
 - a. Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than thirty-five persons, it shall be given as soon as reasonably possible;

- b. Send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three business days after receiving notice of the requester's appeal.
2. The claimant shall have seven business days after notice is sent by the records officer to submit further support for the claim of business confidentiality.

D. Time for determination of appeal.

1. The city administrator shall make a determination on an appeal within the following period of time:
 - a. Within ten business days after the city administrator's receipt of the notice of appeal;
 - b. Within five business days after the city administrator's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or
 - c. Within twelve business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.
2. If the city administrator fails to make a determination within the time specified in subsection (D)(1) of this section, the failure shall be considered the equivalent of an order denying the appeal and affirming the access or fee waiver determination.
3. The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

E. In making a determination on an appeal, the city administrator:

1. May, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private or protected under the Act if the interests favoring access outweigh the interest favoring restriction of access, as set forth by the Act; and
2. Shall include a brief statement of reasons for the determination, including a brief description of the record or portions of the record to which access was ordered or denied, if not already provided, and citations to this chapter, the Act, or other orders, rules, or regulations that govern disclosure of the record that support the determination, provided that such information do not disclose private, controlled protected, or otherwise non-public or restricted information.

- F. The city shall send written notice of the determination on the appeal to all participants. If the city administrator affirms the denial in whole or in part, the notice shall include:

1. A statement that the requester has the right to appeal the denial to the State Records Committee or district court, as set forth by the Act;
2. The time limits for filing an appeal; and
3. The name and business address of the executive secretary of the State Records Committee.

2.28.140 Request To Amend A Record

- A. Subject to subsection G of this section, an individual may contest the accuracy of or completeness of any public or non-public record concerning them by requesting that the city amend the record. The request shall contain the following information:
 1. The requester's name, mailing address, and daytime telephone number; and
 2. A brief statement explaining why the city should amend the record.
- B. The request shall be submitted to the city records officer, who shall issue an order either approving or denying the request to amend no later than thirty days after receipt of the request.
- C. If the city records officer approves the request, they shall correct all of the records that contain the same incorrect information as soon as practical. The city may not disclose the record until it has been so corrected or amended.
- D. If the city records officer denies the request, they shall:
 1. Inform the requester in writing; and
 2. Provide a brief statement giving its reasons for denying the request.
- E. If the city records officer denies a request to amend a record, and the requester does not appeal the denial or the appeal is denied, the requester may submit a written statement contesting the information in the record. The city records officer shall:
 1. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and
 2. Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.
- F. The requester may appeal the denial of the request to amend a record according to the process for appeals of access and fee waiver determinations set forth in this chapter.
- G. This section does not apply to records relating to title to real or personal property, contracts, decisions on land use, business license, or other administrative or quasi-judicial

applications and appeals, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

H. This section does not affect or alter the right of access to non-public records.

2.28.150 Violation; Penalty

- A. The misuse of, wrongful disclosure of, wrongful receipt of, or wrongful refusal to disclose records in violation of this chapter and the Act shall be a class B misdemeanor, as set forth in section 63G-2-801 of the Act, as amended, which section is expressly adopted by the city by reference.
- B. Enforcement of this chapter, including criminal penalties, civil remedies, and defenses to charges of wrongful conduct shall be as set forth in the Act.
- C. A city employee who intentionally violates any portion of this chapter or the Act may, in addition to any other penalty, be subject to disciplinary action, up to and including termination, according to the terms of the Act and the Utah Municipal Officers' and Employees' Ethics Act, Title 10, Chapter 3, Part 13 of the Utah Code, as amended.

Chapter 2.28 CITY RECORDS

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- ~~2.28.140~~ Request ~~To~~to Amend ~~A~~a Record
- 2.28.~~200~~150 Violation; Penalty

2.28.010 Short Title

This chapter is known as the "Highland City Government Records Access and Management Act."

2.28.020 Purpose ~~And~~and Intent

- A. In enacting this act, the city recognizes two fundamental constitutional rights:
 - 1. The right of privacy in relation to personal data gathered by the city; and
 - 2. The public's right of access to information concerning the conduct of the public's business.
- B. It is the intent of the city to:
 - 1. Establish fair information practices to prevent abuse of personal information by the city while protecting the public's right of easy and reasonable access to unrestricted public records; and
 - 2. Provide guidelines of openness to government information and privacy of personal information consistent with nationwide standards;

3. Establish and maintain an active, continuing program for the economical and efficient management of the city's records as provided in this chapter.

2.28.030 Definitions

~~As used in this chapter:~~

~~"Audit"~~"Act" means:

- ~~A. A systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or~~
- ~~B. A systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency and compliance with statutes and regulations.~~

~~"Chronological logs" means the regular and customary summary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire and paramedic calls made to the agency and any arrests or jail bookings made by the agency.~~

~~"Classification," "classify" and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, or protected, or exempt from disclosure under Utah Code, Section 63—Government Records Access and Management Act, Title 63G, Chapter 2-201(3)(b).~~

~~Computer Program.~~

- ~~A. "Computer program" means a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program.~~
- ~~B. "Computer program" does not mean:~~
 - ~~1. The original data, including numbers, text, voice, graphics, and images;~~
 - ~~2. Analysis, compilation and other manipulated forms of the original data produced by use of the program; or~~
 - ~~3. The mathematical or statistical formulas (excluding the underlying mathematical algorithms contained in the program) that would be used if the manipulated forms of the original data were to be produced manually.~~

~~"Controlled record" means a record containing data on individuals that is controlled as provided by Section 2.28.110.~~

~~Contractor.~~

A. ~~"Contractor" means:~~

- ~~1. Any person who contracts with the city to provide goods or services directly to the city; or~~
- ~~2. Any private, nonprofit organization that receives funds from the city.~~

B. ~~"Contractor" does not mean a private provider.~~

~~"Designation," "designate" and their derivative forms mean indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.~~

~~"Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.~~

~~"Individual" means a human being.~~

~~Initial Contact Report.~~

A. ~~"Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:~~

- ~~1. The date, time, location, and nature of the complaint, the incident, or offense;~~
- ~~2. Names of victims;~~
- ~~3. The nature or general scope of the agency's initial actions taken in response to the incident;~~
- ~~4. The general nature of any injuries or estimate of damages sustained in the incident;~~
- ~~5. The name, address, and other identifying information about any person arrested or charged in connection with the incident;~~
- ~~6. The identity of the public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.~~

~~Initial contact reports do not include followup or investigative reports prepared after the initial contact report. However, if the information specified in subsection (1) of this definition appears in followup or investigative reports, it may only be treated confidentially if it is private,~~

~~controlled, protected or exempt from disclosure under Section 63-2-201(3)(b), of the Utah Code, as amended.~~

~~"Person" means any individual, nonprofit or profit corporation, partnership, sole proprietorship or other type of business organization.~~

~~"Private provider" means any person who contracts with the city to provide services directly to the public.~~

~~"Private record" means a record containing data on individuals that is classified private as provided by Section 2.28.100.~~

~~"Protected record" means a record that is classified protected as provided by Section 2.28.120.~~

~~"Public record means a record that has not been appropriately classified private, controlled or protected as provided in Sections 2.28.100 through 2.28.120.~~

~~Record:~~

~~A. "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recording, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received or retained by the city;~~

~~B. "Record" does not mean:~~

- ~~1. Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working;~~
- ~~2. Materials that are legally owned by an individual in his private capacity;~~
- ~~3. Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the city;~~
- ~~4. Proprietary software;~~
- ~~5. Junk mail or commercial publications received by the city or an official or employee of the city;~~
- ~~6. Books and other materials that are cataloged, indexed or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material;~~
- ~~7. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working; or~~
- ~~8. Computer programs as defined in this section that are developed or purchased by or for the city for its own use;~~

9. ~~Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the board of pardons, or a member of any other body charged by law with performing a quasi-judicial function.~~

~~"Record series" means a group of records that may be treated as a unit for purposes of designation, description, management or disposition.~~

~~"Records officer"~~ "Records officer" means the city recorder unless another individual is appointed by the mayor to work in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

~~"Summary data" means statistical records and compilations that contain data derived from private, controlled or protected information but that do not disclose private, controlled, or protected information. Unless otherwise specified, the records officer, or their designee, shall carry out the city's obligations under this chapter and the Act.~~

Other terms used in this chapter shall have the meaning set forth in the Act unless a different meaning is specified or required by the context of the term.

2.28.040 Right ~~Of~~ Public Access

Every person has the right to inspect a public record free of charge and the right to take a copy of a public record during normal working hours, subject to the records request process and the payment of costs and fees pursuant to Section 2.28.060 set forth in the City's fee schedule, this chapter, and the Act.

A. All records are public unless otherwise expressly provided by this chapter or state or federal law or regulation.

B. The following records are not public:

1. Records that are appropriately classified private, controlled, or protected as allowed ~~by Sections 2.28.100 through 2.28.120~~ and defined by the Act; and
2. Records to which access is restricted pursuant to the Act, court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

~~A. Only those records specified in Section 2.28.100, 2.28.110 or 2.28.120 may be classified. In determining a person's right to access a record, including the right to access a private, controlled or, protected.~~

~~B.—~~

- ~~1. The city may not disclose a record that is private, controlled, or protected to any person except as provided in subsection (E)(2) of this section or Section 2.28.050.~~

- ~~2. The city may, at its discretion, disclose records that are private under Section 2.28.100(B) or protected under Section 2.28.120 to persons other than those specified in Section 2.28.050 if the city council, or a designee, determines that there is no interest in restricting access to the record, or that the interests favoring access outweigh the interest favoring restriction of access.~~

~~C.—~~

- ~~1. The disclosure of records to which access is governed or limited pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule or regulation.~~
- ~~2. This chapter applies to records described in subsection (F)(1) of this section insofar as this chapter is not inconsistent with the statute, rule or regulation.~~

~~D. The city shall provide a person with a certified copy of a record if the person requesting the record:~~

- ~~1. Has a right to inspect it;~~
- ~~2. Identifies the record with reasonable specificity; and~~
- ~~3. Pays the lawful fees.~~

~~E.—~~

- ~~1. The city is not required to create a record in response to a request.~~
- ~~2. Nothing in this chapter requires the city to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.~~

~~F. If a person requests copies of more than fifty pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the city may:~~

- ~~1. Provide the requester with the facilities for copying the requested records and require that the requester make the copies himself; or~~
- ~~2. Allow the requester to provide his own copying facilities and personnel to make the copies at the city offices, and waive the fees for copying the records.~~

~~G.—~~

- ~~1. If the city owns an intellectual property right and offers the intellectual property right for sale, or license, the city may control by ordinance or policy the~~

~~duplication and distribution of the material based on terms the city considers to be in the public interest.~~

- ~~2. Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the intellectual property right.~~

~~H. The city may not use the physical form, electronic, or otherwise, in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record under this chapter.~~

~~2.28.050 Access To Nonpublic Records~~

~~A. Upon request the city shall disclose a private record to:~~

- ~~1. The subject of the record;~~
- ~~2. The parent or legal guardian of an unemancipated minor who is the subject of the record;~~
- ~~3. The legal guardian of a legally incapacitated individual who is the subject of the record;~~
- ~~4. Any other individual who:
 - ~~a. Has a power of attorney from the subject of the record, or~~
 - ~~b. Submits a notarized release from the subject of the record or his legal representative dated no later than ninety days before the date the request is made; or~~~~
- ~~5. Any person to whom the record must be provided pursuant to court order.~~

~~B.—~~

- ~~1. Upon request, the city shall disclose a controlled record to:
 - ~~a. A physician, psychologist or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than ninety days prior to the date the request is made and a signed acknowledgement of the terms of disclosure of controlled information as provided by subsection (B)(2) of this section; and~~
 - ~~b. Any person to whom a record must be disclosed pursuant to court order.~~~~

- ~~2. A person who receives a record from the city in accordance with subsection (B)(1)(a) of this section may not disclose controlled information from that record to any person, including the subject of the record.~~
- ~~C. If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.~~
- ~~D. Upon request the city shall disclose a protected record to:~~
 - ~~1. The person who submitted the information in the record;~~
 - ~~2. Any other individual who:~~
 - ~~a. Has a power of attorney from all persons, governmental entities or political subdivisions whose interests were sought to be protected by the protected classification or~~
 - ~~b. Submits a notarized release from his legal representatives dated no more than ninety days prior to the date the request is made; or~~
 - ~~3. Any person to whom a record must be provided pursuant to a court order.~~
- ~~E. The city may disclose a record classified private, controlled or protected to another governmental entity, city, another state, the United States or a foreign government only as provided by Utah Code Annotated, Section 63-2-206.~~
- ~~F. Before releasing a private, controlled or protected record, the city shall obtain evidence of the requester's identity.~~
- ~~G. The city shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:~~
 - ~~1. The record deals with a matter in controversy over which the court has jurisdiction;~~
 - ~~2. The court has considered the merits of the request for access to the record; and~~
 - ~~3. The court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Utah Code Section 63-2-304(1) and (2), and privacy interests or the public interest in the case of other protected records;~~
 - ~~4. To the extent the record is properly classified private, controlled or protected, the interests favoring access, considering limitations thereon, outweigh the interests favoring restriction of access; and~~

- C. ~~Where access is non-public or restricted by a rule, statute, or regulation referred to in Section 2.28.040(C)(2), the court has authority independent of this chapter to order disclosure of the record, the city and the requester shall follow the requirements and regulations set forth in this chapter and the Act.~~

~~H.—~~

1. ~~The city may disclose or authorize disclosure of private or controlled records for research purposes if the city:~~

- ~~a. Determines that the research purpose cannot reasonably be accomplished without use of disclosure of the information to the researcher in individually identifiable form;~~
- ~~b. Determines that the proposed research is bona fide, and that the value of the research outweighs the infringement upon personal privacy;~~
- ~~c. Requires the researcher to assure the integrity, confidentiality and security of the records and requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;~~
- ~~d. Prohibits the researcher from disclosing the record in individually identifiable form except as provided in subsection (H)(2) of this section, or from using the record for purposes other than the research approved by the city; and~~
- ~~e. Secures from the researcher a written statement of his understanding of and agreement to the conditions of this subsection and his understanding that violation of the terms of this subsection may subject him to criminal prosecution under Section 63-2-801 of the Utah Code.~~

2. ~~A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.~~

3. ~~The city may require indemnification as a condition of permitting research under this subsection.~~

~~I.—~~

1. ~~Under Sections 2.28.040(F)(2) and 2.28.160(D) the city may disclose records that are private under Section 2.28.100, or protected under Section 2.28.120, to persons other than those specified in this section.~~

- ~~2. Under Section 2.28.160 the city council may require the disclosure of records that are private under Section 2.28.100, controlled under Section 2.28.110 or protected under Section 2.28.120 to persons other than those specified in this section.~~
- ~~3. Under Section 63-2-404(8) of the Utah Code the court may require the disclosure of records that are private under Section 2.28.100, controlled under Section 2.28.110 or protected under Section 2.28.130 to persons other than those specified in this section.~~

2.28.060 Fees

The city may 2.28.050 Fees

A. The city shall charge a reasonable fee to cover the city's actual cost of duplicating responding to a records request, in accordance with the following requirements:

1. The fee shall cover the city's actual cost for:
 - a. Compiling, formatting, manipulating, packaging, summarizing, or tailoring the record or compiling either into an organization or media to meet the person's request;
 - b. Staff time for search, retrieval, and other direct administrative costs for complying with a request; and
 - c. For a record in a form that is the result of computer output other than that maintained by the city. The word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users.
2. An hourly charge for the cost of staff time in responding to a request shall not exceed the salary of the lowest paid employee who, in the discretion of the records officer, has the necessary skill and training to perform the request.
3. Costs and fees may other than the cost of staff time related to responding to a record request and to providing a record shall be as set by resolution. by the city council.
4. The initial fee, until changed shall not include the following:
 - a. The first 15 minutes of staff time spent responding to a records request, unless the Act allows for such time to be counted;
 - b. Costs for reviewing a record to determine whether the record is subject to disclosure; or

c. Costs for inspecting a record.

B. In determining the fee to be charged, the city may consider multiple requests by the same requester within a short period of time as a single request if it appears that the requester is submitting multiple requests primarily to avoid the fees that would be charged if the requests were handled as a single request.

A.C. The city may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed \$50 or the requester has not paid fees from previous requests. The city may also charge interest on any unpaid obligation, as set by resolution, is as set forth in Exhibit "A," attached to the ordinance codified in this chapter and on file in the office of the city clerk. Any costs above prepayment will be due prior to requester receiving the record(s). Any prepaid amount in excess of fees due shall be returned to the requester.

A2.28.060 Fee Waivers

A. The city may grant a waiver of fees to fulfill a record request ~~without charge~~ when it determines that:

1. Releasing the record primarily benefits the public rather than a person;
2. The individual requesting the record is the subject of the record; or
3. The requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

~~1. A city may not charge a fee for:~~

~~a. Reviewing a record to determine whether it is subject to disclosure; or~~

~~b. Inspecting a record.~~

B. Except in extraordinary cases, as determined by the records officer, a fee waiver shall operate to waive only the cost of the first two hours of staff time and the other direct costs to the City involved in responding to a request. Staff time beyond two hours that is required to respond to a request shall be charged as set forth herein regardless of the fee waiver.

C. The burden of demonstrating the need for a fee waiver shall be on the requester, and a person who believes that there has been an unreasonable denial of a fee waiver by the city may appeal the waiver denial in the same manner as denial of access to a record.

2.28.070 Procedures For Access

A. The process and timeframes for a person to request access to records and for the city to respond to such requests shall be as set forth in the Act.

~~A.B.~~ A person making a request for a record shall furnish the city records officer with a written request containing ~~his~~their name, mailing address, email, daytime telephone number ~~if available~~, and a description of the records requested that identifies the ~~record~~records with reasonable specificity.

~~A. As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by:~~

~~C. Approving the request and providing the~~ If person claims the right to access a private, controlled, protected, or otherwise non-public record due to the person's identity or status, the person shall be required to provide information and documentation establishing the person's identity or status. Such information may include copies or proof of government-issued identification, powers of attorney, incumbency certificates, and other appropriate documentation.

~~D. A person making a request for a record shall indicate whether they wish to receive records and other information and notices related to their request by email, mail, or some other method.~~

~~E. In response to a request, the city is not required to:~~

1. create a record;

~~1. Denying the request;~~

2. Notifying compile, format, manipulate, package, summarize, or tailor information;

3. provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

4. fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or

5. fill a person's records request if:

a. the record requested is publicly accessible online or included in a public publication or product produced by the city; and

~~a.b.~~ the city specifies to the requester where the record is accessible online or provides the requester that it does not maintain the record and providing, if known, the name and address of with the public publication or product and specifies where the record can be found; or in the public publication or product.

~~F. Notifying~~ If the requester requests and the city chooses to create a record, compile, format, manipulate, package, summarize, or tailor information, or provide a record in a

particular format, medium, or program as requested by a person, the requester that because shall pay all of one the city's actual costs involved with such work and shall not be entitled to any waiver of the extraordinary circumstances listed in subsection D fees.

2.28.080 Public Benefit

In determining whether release of a record primarily benefits the public rather than a person for purposes of this section, it cannot immediately approve or deny the request. The notice shall describe the circumstances relied upon and specify the earliest time chapter and date when the Act, the city may consider:

- A. Whether the records will be available relate to issues that impact all city residents, such as utilities or taxes;
- B. Any person who Whether the issue has been published or reported in the news in the previous six months;
- C. Whether the issue has been on a public meeting agenda of a Highland City public body in the previous six months; and
- B.D. Whether the requester is a member of or affiliated with a media or news outlet or requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.
- B. The following circumstances constitute "extraordinary circumstances" that allow the city to delay approval or denial by an additional period of time as specified in subsection E of this section if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in subsection B of this section:
 - 1. Another governmental entity is using the record, in which case the city shall promptly request that the governmental entity currently in possession return the record;
 - 2. Another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;
 - 3. The request is for a voluminous quantity of records;
 - 4. The city is currently processing a large number of records requests;
 - 5. The request requires the city to review a large number of records to locate the records requested;
 - 6. The decision to release a record involves legal issues that require the city to seek legal counsel for the analysis of statutes, rules, ordinances, regulations or case law;

- ~~7. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or~~
 - ~~8. Segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.~~
- ~~C. If one of the extraordinary circumstances listed in subsection D of this section precludes approval or denial within the time specified in subsection B of this section, the following time limits apply to the extraordinary circumstances:~~
- ~~1. For claims under subsection (D)(1) of this section, the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;~~
 - ~~2. For claims under subsection (D)(2) of this section, the originating city shall notify the requester when the record is available for inspection and copying;~~
 - ~~3. For claims under subsections (D)(3), (D)(4) and (D)(5) of this section, the city shall:~~
 - ~~a. Disclose the records that it has located which the requester is entitled to inspect;~~
 - ~~b. Provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request, and~~
 - ~~c. Complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible;~~
 - ~~4. For delays under Section 2.28.070(D)(6), the city shall either approve or deny the request within five business days after the response time specified for the original request has expired;~~
 - ~~5. For delays under Section 2.28.070(D)(7), the city shall fulfill the request within fifteen business days from the date of the original request; or~~
 - ~~6. For delays under Section 2.28.070(D)(8), the city shall complete its programming and disclose the requested records as soon as reasonably possible.~~
- ~~D. If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.~~

2.28.080 Denials

2.28.090 Denials

- A. If the city denies the records request in whole or part, ~~including if the city denies the request for a fee waiver, the city~~ shall provide a written notice of denial to the requester either in person or by sending the notice to the requester's ~~address~~physical or electronic address, as specified in the request.
- B. The notice of denial shall contain the following information:
1. If the denial includes a denial of a request for a fee waiver, a statement that the waiver was denied and a short description of the reasons for such denial, with citations to this chapter, the Act, or other relevant authority;
 - ~~1.2.~~2.A description of the record or portions of the record to which access was denied, provided that the description does not disclose private, controlled ~~or protected~~ information ~~or records to which access is restricted pursuant to court rule, another state statute, federal statute or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds, protected, or otherwise non-public or restricted information or records;~~
 - ~~2.3.~~3.Citations to the provisions of this chapter, the Act, another state statute, federal statute, court rule or order or federal regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose private, controlled ~~or~~ protected or otherwise non-public or restricted information or records;
 - ~~3.4.~~4.A statement that the requester has the right to appeal the denial to the city ~~council~~administrator; and
 - ~~4.5.~~5.A brief summary of the appeals process, ~~and~~ the time limits for filing an appeal, and the name and business address of the city administrator.
- A. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.

2.28.090 Records That Must Be Disclosed

~~A. The following records are public:~~

- ~~1. Laws and ordinances;~~
- ~~2. Names, gender, gross compensation, job titles, job descriptions, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of the city's former and present employees and officers excluding undercover law enforcement personnel or investigative personnel if~~

~~disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;~~

- ~~3. Final opinions, including concurring and dissenting opinions, and orders that are made by the city in an administrative, adjudicative or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they obtain information that is private, protected or controlled;~~
 - ~~4. Final interpretation of statutes or rules by the city unless classified as protected as provided in Section 2.28.120(O), (P) and (Q);~~
 - ~~5. Information contained in or compiled from a transcript, minutes or report of the open portion of a meeting of the city including the records of all votes of each member of the city council;~~
 - ~~6. Judicial records unless a court orders the record to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;~~
 - ~~7. Records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions (the division of state lands and forestry, the division of oil, gas and mining, the division of water rights) or other governmental entities that give public notice of:
 - ~~a. Titles or encumbrances to real property,~~
 - ~~b. Restrictions on the use of real property,~~
 - ~~c. The capacity of persons to take or convey title to real property, or~~
 - ~~d. Tax status for real and personal property;~~~~
 - ~~8. Records of the department of commerce that evidence incorporations, mergers, name changes and uniform commercial code filings;~~
 - ~~9. Data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the city written permission to make the records available to the public;~~
 - ~~10. Documentation of the compensation that the city pays to a contractor or private provider; and~~
 - ~~11. Summary data.~~
- ~~B. The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Section 2.28.040(C)(2) or Sections 2.28.100 through 2.28.120:~~

- ~~1. Administrative staff manuals, instructions to staff and statements of policy;~~
- ~~2. Records documenting a contractor's or private provider's compliance with the terms of a contract with the city;~~
- ~~3. Records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the city;~~
- ~~4. Contracts entered into by the city;~~
- ~~5. Any account, voucher or contract that deals with the receipt or expenditure of funds by the city;~~
- ~~6. Records relating to governmental assistance or incentives publicly disclosed, contracted for or given by the city, encouraging a person to expand or relocate a business in Utah, except as provided in Section 63-2-304(34) of the Utah Code;~~
- ~~7. Chronological logs and initial contact reports;~~
- ~~8. Correspondence by and with the city in which the city determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;~~
- ~~9. Empirical data contained in drafts if:
 - ~~a. The empirical data is not reasonably available to the requester elsewhere in similar form, and~~
 - ~~b. The city is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;~~~~
- ~~10. Drafts that are circulated to anyone other than the city, state or to anyone other than a federal agency if the city, state or federal agency is jointly responsible for implementation of a program or project that has been legislatively approved; and~~
- ~~11. Drafts that have never been finalized but were relied upon by the city in carrying out action or policy;~~
- ~~12. Original data in a computer program if the city chooses not to disclose the program;~~
- ~~13. Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;~~
- ~~14. Search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;~~
- ~~15. Records that would disclose information relating to formal charges or disciplinary actions against a past or present city employee if:~~

~~a. The disciplinary action has been completed and all time periods for administrative appeal have expired, and~~

~~b. The formal charges were sustained;~~

~~16. Records maintained by the division of state lands and forestry or the division of oil, gas and mining that evidence mineral production on government lands;~~

~~17. Final audit reports;~~

~~18. Occupational and professional licenses;~~

~~19. Business licenses; and~~

~~20. A notice of violation, a notice of agency action under Section 63-46b-3 of the Utah Code, or similar records used to initiate proceedings for discipline or sanctions against persons regulated by the city, but not including records that initiate employee discipline.~~

~~C. The list of public records in this section is not exhaustive and should not be used to limit access to records.~~

2.28.100 Private Records

~~A. The following records are private:~~

~~1. Records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits or the determination of benefit levels;~~

~~2. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data;~~

~~3. Records of publicly funded libraries that when examined alone or with other records identify a patron;~~

~~4. Records received or generated in a Senate or House ethics committee concerning any alleged violation of the rules on legislative ethics if the ethics committee meeting was closed to the public;~~

~~5. Records concerning a current or former employee of, or applicant for employment with, the city that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status or payroll deductions.~~

~~B. The following records are private if properly classified by the city:~~

~~1. Records concerning a current or former employee of, or applicant for employment with, the city, including performance evaluations and personal status information such as race, religion or disabilities, but not including records that are public~~

under Section 2.28.090(A)(2) and (B)(15) or private under Section 2.28.100(A)(5);

~~2. Records describing an individual's finances, except that the following are public:~~

~~a. Records described in Section 2.28.090(A);~~

~~b. Information provided to the city for the purpose of complying with a financial assurance requirement, or~~

~~c. Records that must be disclosed in accordance with another statute;~~

~~3. Records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;~~

~~4. Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;~~

~~5. Records provided by the United States or by a governmental entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it.~~

2.28.110 Controlled Records

~~A record is controlled only if:~~

~~A. The record contains medical, psychiatric or psychological data about an individual;~~

~~B. The city reasonably believes that:~~

~~1. Releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual, or~~

~~2. Releasing the information would constitute a violation of normal professional practice and medical ethics, and~~

~~3. The city has properly classified the record.~~

2.28.120 Protected Records

~~The following records are protected if properly classified by the city:~~

~~A. Trade secrets as defined in Section 13-24-2 of Utah Code Annotated if the person submitting the trade secret has provided the city with the information specified in Section 63-2-308 of Utah Code Annotated;~~

~~B. Commercial information or nonindividual financial information obtained from a person if:~~

- ~~1. Disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the city to obtain necessary information in the future;~~
 - ~~2. The person submitting the information has a greater interest in prohibiting access than the public in obtaining access, and~~
 - ~~3. The person submitting the information has provided the city with the information specified in Section 63-2-308 of Utah Code Annotated;~~
- ~~C. Commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city or state economy;~~
- ~~D. Test questions and answers to be used in future license, certification, registration, employment or academic examinations;~~
- ~~E. Records the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;~~
- ~~F. Records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:~~
- ~~1. Public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible;~~
 - ~~2. The information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;~~
 - ~~3. In the case of records that would identify property, potential sellers of the property described have already learned of the city's plans to acquire the property;~~
 - ~~4. In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property;~~
- ~~G. Records prepared in contemplation of sale, exchange, lease, rental or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:~~
- ~~1. The public interest in access outweighs the interests in restricting access, including the city's interest in maximizing the financial benefit of the transaction;~~
~~or~~

- ~~2. When prepared by or on behalf of the city, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city;~~
- ~~H. Records created or maintained for civil, criminal or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification or registration purposes if release of the records:~~
- ~~1. Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification or registration purposes;~~
 - ~~2. Reasonably could be expected to interfere with audits, disciplinary or enforcement proceedings;~~
 - ~~3. Would create a danger of depriving a person of a right to a fair trial or impartial hearing;~~
 - ~~4. Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source, or~~
 - ~~5. Reasonably could be expected to disclose investigative or audit techniques, procedures, policies or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;~~
- ~~I. Records the disclosure of which would jeopardize the life or safety of an individual;~~
- ~~J. Records the disclosure of which would jeopardize the security of governmental property, governmental programs or governmental recordkeeping systems from damage, theft or other appropriation or use contrary to law or public policy;~~
- ~~K. Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation or parole;~~
- ~~L. Records that if disclosed, would reveal recommendations made to the board of pardons by an employee of or contractor for the department of corrections, the board of pardons, or the department of human services that are based on the employee's or contractor's supervision, diagnosis or treatment of any person within the board's jurisdiction;~~
- ~~M. Records and audit workpapers that identify audit, collection and operational procedures and methods used by the Utah State Tax Commission if disclosure would interfere with audits or collections;~~

- ~~N. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;~~
- ~~O. Records prepared by or on behalf of the city solely in anticipation of litigation that are not available under the rules of discovery;~~
- ~~P. Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the city concerning litigation;~~
- ~~Q. Records of communications between the city and an attorney representing, retained or employed by the city if the communications would be privileged as provided in Section 78-24-8 of Utah Code Annotated;~~
- ~~R. Drafts, unless otherwise classified as public;~~
- ~~S. Records concerning the city's strategy about collective bargaining or pending litigation;~~
- ~~T. Records of investigations of loss occurrences and analyses of loss occurrences;~~
- ~~U. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;~~
- ~~V. Records that reveal the location of historic, prehistoric, paleontological or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational or cultural information;~~
- ~~W. Records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;~~
- ~~X. Records provided by the United States or by a government entity outside the state that are given to the city with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;~~
- ~~Y. Transcripts, minutes or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-7 of the Open and Public Meeting Act;~~
- ~~Z. Records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;~~
- ~~AA. ——— Memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the board of pardons, or a member of any other body charged by law with performing a quasi-judicial function;~~
- ~~BB. ——— Records that would reveal negotiations regarding assistance or incentives offered by or requested from the city for the purpose of encouraging a person to expand or locate~~

~~a business in Utah, but only if disclosure would result in actual economic harm to the person or place the city at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract; and~~

~~CC. — Materials to which access must be limited for purposes of securing or maintaining the city's proprietary protection of intellectual property rights including patents, copyrights and trade secrets.~~

2.28.1302.28.100 Records Classification

A. The city shall:

1. Evaluate all record series that it uses or creates;
2. Designate those record series as provided by this chapter;
3. Report the designation of its record ~~service~~series to the state archives.

B. The city may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series or information until access to the record is requested.

C. The city may redesignate a record series or reclassify a record or record series, or information within a record at any time.

D. If more than one provision of this chapter or the Act could govern the classification of a record, the city shall classify the record by considering the nature of the interests intended to be protected and the specificity of the competing provisions.

2.28.140110 Records Retention

The city council shall ~~by resolution~~ establish a retention schedule for each record series. ~~The initial~~Where a specific retention schedule ~~shall be as set forth in Exhibit B attached to the ordinance codified in this chapter and on file in the office of the city clerk~~for a record series has not been established by the city, the city shall follow the general retention schedules promulgated by the Utah Division of Archives and Records Service. The city shall report all adopted retention schedules to the state archives.

2.28.150120 Segregation ~~Of~~ Records

Notwithstanding any other provision in this chapter, if the city receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the city:

- A. Shall allow access to information in the record that the requester is entitled to inspect under this chapter; and

- B. May deny access to information in the record by segregation, editing, redaction, or other appropriate means if the information is exempt from disclosure to the requester, issuing a notice of denial for the withheld or segregated information.

2.28.160130 Appeals

~~A.~~

A. Appeal process:

1. Any person aggrieved by the city's access or fee waiver determination under this chapter, including a person not a party to the city's proceeding who is an interested party affected by an access determination, may appeal the determination to the ~~mayor and city council administrator~~ by filing a written notice of appeal with the records officer within 30 days after the city sends the notice of denial or the request is considered or deemed to be denied.
2. If the city claims extraordinary circumstances and specifies the date when the records will be available, and if the requester believes the extraordinary circumstances do not exist or that the time specified is unreasonable, the requester may appeal the city's claim of extraordinary circumstances or date for compliance within thirty days after notification of a claim of extraordinary circumstances by the city, despite the lack of a "determination" or its equivalent.
3. A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty days after receiving the notice of appeal, instead of the timeframes set forth below.

B. The notice of appeal shall contain the following information:

~~B.~~ The petitioner's name, mailing address and daytime telephone number;

- 1.
2. The relief sought; and
3. A short statement of facts, reasons, and legal authority in support of the appeal.

C. Appeals Involving Business Confidentiality

- ~~3.1.~~ If the appeal involves a record that is the subject of a business confidentiality claim under ~~Section 63-2-308~~ of the Utah Code Act, the ~~city recorder~~records officer shall:

- a. Send notice of the requester's appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than thirty-five persons, it shall be given as soon as reasonably possible;
- b. Send notice of the business confidentiality claim and the schedule for the city recorder's determination to the requester within three business days after receiving notice of the requester's appeal.

~~4.2.~~The claimant shall have seven business days after notice is sent by the ~~city recorder~~records officer to submit further support for the claim of business confidentiality.

~~C.~~

D. Time for determination of appeal.

~~5.1.~~The ~~mayor~~city administrator shall make a determination on ~~any~~an appeal within the following period of time:

a. Within ten business days after the city administrator's receipt of the notice of appeal;

~~a.b.~~ Within five business days after the ~~mayor's~~chief administrative officer's city administrator's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

~~b.c.~~ Within twelve business days after the city sends the requester's notice of appeal to a person who submitted a claim of business confidentiality.

~~6.2.~~If the ~~mayor~~city administrator fails to make a determination within the time specified in subsection (~~C~~D)(1) of this section, the failure shall be considered the equivalent of an order denying the appeal and affirming the access or fee waiver determination.

~~7.3.~~The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

E. ~~The mayor may~~In making a determination on an appeal, the city administrator:

~~8.1.~~May, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private ~~under Section 2.28.100(B)~~ or protected under ~~Section 2.28.120~~the Act if the interests favoring access outweigh the interest favoring restriction of access-, as set forth by the Act; and

2. Shall include a brief statement of reasons for the determination, including a brief description of the record or portions of the record to which access was ordered or denied, if not already provided, and citations to this chapter, the Act, or other orders, rules, or regulations that govern disclosure of the record that support the determination, provided that such information do not disclose private, controlled protected, or otherwise non-public or restricted information.

F. The city shall send written notice of the determination ~~of~~on the ~~mayor~~appeal to all participants. If the ~~mayor~~city administrator affirms the denial in whole or in part, the ~~denial~~notice shall include a:

1. A statement that the requester has the right to appeal the denial to the ~~city council~~, and the State Records Committee or district court, as set forth by the Act;

9.2. ~~The~~ time limits for filing an appeal; and

~~D. The ~~duties~~name and business address of the ~~mayor~~under this section may be delegated.~~

~~E. The ~~notice~~executive secretary of appeal to the ~~city council~~ must be filed with the city recorder no later than thirty days after the mayor has denied the appeal or fails to make a determination within the time specified in Section 2.28.160(C)(1).~~

~~B.A. The notice of appeal shall contain the following information:~~

- ~~1. The petitioner's name, mailing address and daytime telephone number; and~~
- ~~2. The relief sought.~~

~~F. The petitioner may file a short statement of facts, reasons, and legal authority in support of the appeal.~~

~~G. No later than three days after receiving a notice of appeal, the recorder shall:~~

- ~~1. Schedule a hearing for the city council to discuss the appeal which shall be held no sooner than fifteen days and no later than thirty days from the date of the filing of the appeal;~~
- ~~2. At the hearing, the city council shall allow the parties to testify, present evidence, and comment on the issues. The city council may allow other interested persons to comment on the issues;~~
- ~~3. No later than three business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part;~~
- ~~4. The order of the city shall include:~~

- a. ~~A statement of reasons for the decision, including citations to this chapter or federal regulation that governs disclosure of the record, provided that the citations do not disclose private, controlled or protected information;~~
- b. ~~A description of the record or portions of the record to which access was ordered or denied, provided that the description does not disclose private, controlled or protected information;~~
- c. ~~A statement that any party to the appeal may appeal the city's decision to district court; and~~
- d. ~~A brief summary of the appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.~~

~~H. A person aggrieved by the city's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequestor is the only appellant, the procedures provided in this section shall apply, except that the determination on the appeal shall be made within thirty days after receiving the notice of appeal.~~

2.28.170 Judicial Review

~~Any party to a proceeding before the city council may petition for judicial review by the district court of the city council's order. The petition shall be filed no later than thirty days after the date of the city council's order.~~

~~1.3.2.28.180 Confidential Treatment Of~~State Records ~~For Which No Exemption Applies~~Committee.

- A. ~~A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:~~
 - 1. ~~There are compelling interests favoring restriction of access to the record; and~~
 - 2. ~~The interests favoring restriction of access clearly outweigh the interests favoring access.~~
- B. ~~If the city requests a court to restrict access to a record under this section, the court shall require the city to pay the reasonable attorneys' fees incurred by the lead party in opposing the city's request, if:~~
 - 1. ~~The court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and~~
 - 2. ~~The court denies confidential treatment under this section.~~

~~C. This section does not apply to records that are specifically required to be public under Section 2.28.090 or Section 63-2-301 of the Utah Code, except as provided in subsection D of this section.~~

~~D.—~~

~~1. Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.~~

~~2. Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.~~

2.28.190 2.28.140 Request To Amend A Record

~~A.—~~

A. Subject to subsection G of this section, an individual may contest the accuracy of or completeness of any public, or ~~private, or protected~~non-public record concerning ~~him~~them by requesting that the city ~~to~~ amend the record. ~~However, this section does not affect~~The request shall contain the right of access to private or protected records following information:

~~1. The request shall contain the following information:~~

1. The requester's name, mailing address, and daytime telephone number; and
2. A brief statement explaining why the city should amend the record.

B. The request shall be submitted to the city records officer, who shall issue an order either approving or denying the request to amend no later than thirty days after receipt of the request.

C. If the city records officer approves the request, they~~it~~ shall correct all of ~~its~~the records that contain the same incorrect information as soon as practical. ~~The~~A city may not disclose the record until it has been so corrected or amended~~it~~.

D. If the city records officer denies the request, they~~it~~ shall:

1. Inform the requester in writing; and
2. Provide a brief statement giving its reasons for denying the request.

~~B.—~~

- 1.—If the city records officer denies a request to amend a record, and the requester does not appeal the denial or the appeal is denied, the requester may submit a written statement contesting the information in the record.

E. The city records officer shall:

1. File the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and
2. Disclose the requester's statement along with the information in the record whenever the city discloses the disputed information.

F. The requester may appeal the denial of the request to amend a record pursuant to Section 2.28.160 according to the process for appeals of access and fee waiver determinations set forth in this chapter.

G. This section does not apply to records relating to title to real or personal property, contracts, decisions on land use, business license, or other administrative or quasi-judicial applications and appeals, medical records, judicial case files, or any other records that the city determines must be maintained in their original form to protect the public interest and to preserve the integrity of the record system.

H. This section does not affect or alter the right of access to non-public records.

2.28.200150 Violation; Penalty

~~A.—~~

~~A. A public employee or other person who has lawful access to any private, controlled~~The misuse of, wrongful disclosure of, wrongful receipt of, or protected record under wrongful refusal to disclose records in violation of this chapter, and the Act shall be a class B misdemeanor, as set forth in section 63G-2-801 of the Act, as amended, which section is expressly adopted by the city by reference.

~~B. Enforcement of this chapter, including criminal penalties, civil remedies, and defenses to charges of wrongful conduct shall be as set forth in the Act.~~

- 1.—~~A city employee who intentionally discloses~~violates any portion of this chapter or provides a copy of a private, controlled or protected record~~the Act may, in addition to any person knowing that such disclosure is prohibited, is guilty of a class B misdemeanor.~~

- 2.—~~It is a defense to prosecution under subsection (A)(1) of this section that the actor released private, controlled or protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law~~

~~involving government corruption, abuse of office, or misappropriation of public funds or property.~~

- ~~3. It is a defense to prosecution under subsection (A)(1) of this section that the record could have lawfully been released to the recipient if it had been properly classified.~~

~~B.—~~

- ~~1. A person who by false pretenses, bribery or theft, gains access to or obtains a copy of any private, controlled or protected record to which he is not legally entitled, is guilty of a class B misdemeanor.~~
- ~~2. No person shall be guilty under subsection (B)(1) of this section who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.~~

~~C.—~~

A.C. ~~A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a city, the records committee or a court, is guilty of a class B misdemeanor.~~other penalty, be subject to disciplinary action, up to and including termination, according to the terms of the Act and the Utah Municipal Officers' and Employees' Ethics Act, Title 10, Chapter 3, Part 13 of the Utah Code, as amended.