

Title 16
SUBDIVISIONS

Chapters:

- 16-01 Purpose of Title
- 16-04 Definitions
- 16-08 Minor Subdivision
- 16-12 Subdivision Procedure
- 16-16 ~~Pre-Application Process~~ Sketch Plan
- 16-20 Preliminary Plat
- 16-24 Final Plat
- 16-28 Improvements
- 16-32 Standards
- 16-36 Impact Fees, Enforcement, Permits, and Penalties

Chapter 16-01
PURPOSE OF TITLE

Sections:

- 16-01-01 Purpose

16-01-010 PURPOSE.

This title is adopted pursuant to Utah ~~State~~ Code Annotated §10-9-801 for the following purposes:

- A. To promote and protect the public health, safety and welfare.
- B. To promote cohesive, orderly and efficient growth and development.
- C. To implement the goals and objectives of the General Plan.
- D. To provide standards and procedures for review and construction of subdivisions and other developments.
- E. To enhance the aesthetics and quality of life in the City of Enterprise.
- F. To minimize traffic congestion and enhance mobility.
- G. To encourage efficiencies in public services and promote a sustainable community.
- H. To ensure appropriate light, air and privacy and minimize congestion of uses.
- I. To eliminate or minimize nuisances, clutter and visual blight.
- J. To maintain and enhance property values. (Ord. 2002-04, 2002)

Chapter 16-04
DEFINITIONS

Sections:

- 16-04-010 Definitions.
- 16-04-020 Administrative Land Use Authority
- 16-04-0320 Alley
- 16-04-0430 Benchmark.
- 16-04-0435 Bond.
- 16-04-0540 City Council.
- 16-04-0650 City Engineer.
- 16-04-0760 Collector street.
- 16-04-0870 Cul-de-sac.
- 16-04-0980 Easement.
- 16-04-1090 Final plat.
- 16-04-1190 Lot.
- 16-04-1240 Lot width.
- 16-04-1320 Major street.
- 16-04-1430 Minor street.
- 16-04-1540 Official map.
- 16-04-1650 Owner.
- 16-04-1760 Parcel of land.
- 16-04-1870 Planning commission.
- 16-04-1980 Preliminary approval.
- 16-04-20490 Preliminary plat.
- 16-04-2160 Concept plan, Sketch plan.
- 16-04-2240 Subdivision.
- 16-04-2320 Subdivision, minor.
- 16-04-240 Subdivision Improvement Plans
- 16-04-2530 Subdivider

16-04-010 DEFINITIONS.

The terms set out in this chapter and used in this title shall have the respective meanings set forth in this chapter. (Ord. 2002-04, 2002)

16-04-020 ADMINISTRATIVE LAND USE AUTHORITY.

- a. “Administrative land use authority” means an individual, board, or commission, appointed or employed by a municipality, including municipal staff or a municipal planning commission.
- b. “Administrative land use authority” does not include a municipal legislative body or a member of a municipal legislative body.

16-04-0320 ALLEY.

Formatted: Font: 11 pt

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Font: 11 pt

"Alley" is a public way which affords a secondary means of access to abutting property. (Ord. 2002-04, 2002)

16-04-0430 BENCHMARK.

"Benchmark" is a mark affixed to a permanent or semi-permanent object along a line of survey to furnish a datum level. (Ord. 2002-04, 2002)

16-04-0435 BOND.

"Bond" "Bond of Indemnity" or "Performance Bond" shall mean:

- A. A cash deposit with the City in an interest bearing account,
- B. A letter of credit, in a form approved by the City Attorney, issued by an approved financial institution registered and licensed to do business in the State of Utah, or
- C. A performance/payment bond issued by a surety company who is registered and authorized to transact business as a surety in the State of Utah and having an agent designated for service in the state. Said surety company shall possess least an "A" policy holder's rating and at least a "V" financial rating as determined by the most current edition of the "Best's Ratings" for Surety & Insurance Companies or a reasonable equivalent thereto.
- D. A cashier's check or a bank issued check paid to the order of the City of Enterprise, to be held in trust without interest, when the duration of the project is not expected to exceed thirty (30) days and when the project cost estimate does not exceed twenty thousand dollars (\$20,000.00).
All bonds shall be in an amount no less than the cost of the improvements or repairs being performed plus twenty five percent (25%) as determined by:
 - a. An estimate of costs prepared by an engineer registered and licensed to practice in the State of Utah, paid for by the requesting party and approved by the City's Engineer, or
 - b. An estimate or contract for construction of said improvements or repairs prepared by a contractor licensed in the State of Utah containing a fixed contract price for a period of at least six (6) months, which is reviewed and approved by the City's Engineer or designated official of the City.

Except for item "d." above, the duration of said bonds shall be a period of two (2) years from the date of issuance with fifteen percent (15%) remaining in effect for an additional period of one year after the improvements or repairs are deemed completed by the City Engineer or a designated official of the City as a "warranty bond" against defective workmanship and materials. When option "d." above is exercised, the City may retain fifteen percent (15%) as a "warranty bond" for a period of one year after completion of the improvements or repairs at its sole discretion according to the nature and complexity of the project. The City may release parts of the bond posted, at its sole discretion, upon request from the party posting the bond, only after the portion requested for release is reviewed by the City Engineer or a designated official of the City and determined to be a reasonable reflection of the percentage of the cost of work already completed. In the event the party required to post the bond fails to install or complete the improvements or repairs necessitating the bond, the City may declare the bond to be in default and request that it be forfeited and paid to the City who in turn shall pay all liens relating to the improvements or repairs

and may utilize the remainder of the bond proceeds to complete the improvements or repairs. (Ord. 2006-03, 2006)

16-04-0540 CITY COUNCIL.

"City Council" means the Enterprise City Council. (Ord. 2002-04, 2002)

16-04-0650 CITY ENGINEER.

"City Engineer" means the City Engineer of Enterprise City or any individual or firm retained or designated by Enterprise City for the purpose of performing Engineering duties. (Ord. 2002-04, 2002)

16-04-0760 COLLECTOR STREET.

"Collector street" is a street which carries traffic from minor streets to the major street system, including the principal entrance streets of residence development and the primary circulating streets within such a development. (Ord. 2002-04, 2002)

16-04-0870 CUL-DE-SAC.

"Cul-de-sac" is a minor street having one open end and being terminated at the other by a vehicular turnaround. (Ord. 2002-04, 2002)

16-04-0980 EASEMENT.

"Easement" is the quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public. (Ord. 2002-04, 2002)

16-04-09100 FINAL PLAT.

"Final plat" is a map or chart of a subdivision which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots, and other division thereof can be identified. (Ord. 2002-04, 2002)

16-04-1160 LOT.

"Lot" means a portion of a subdivision or parcel of land intended as a unit for building development or transfer of ownership. (Ord. 2002-04, 2002)

16-04-1240 LOT WIDTH.

"Lot width" is the width of the lot measured along the minimum building setback line. (Ord. 2002-04, 2002)

16-04-1320 MAJOR STREET.

"Major Street" means a street, existing or proposed, which serves or is intended to serve as a major traffic way and which may be designated on the master street plan as a controlled access highway,

major street, parkway or by equivalent terms suitable to identify streets comprising the basic structure of the street plan. (Ord. 2002- 04, 2002)

16-04-1430 MINOR STREET.

"Minor Street" means a street, existing or proposed, which is supplementary to a collector or major street and of limited continuity, which serves or is intended to serve the local needs of a neighborhood. (Ord. 2002-04, 2002)

16-04-1540 OFFICIAL MAP.

"Official map" means any map adopted by the commission under the provisions of UCA Section 17-27-7, 1953, as amended or any replacement or substitute provision thereof. (Ord. 2002-04, 2002)

16-04-1650 OWNER.

"Owner" includes the plural as well as the singular, and may mean a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, etc. or any combination thereof. (Ord. 2002- 04, 2002)

16-04-1760 PARCEL OF LAND.

"Parcel of land" means a contiguous quantity of land, in the possession of, or owned by or recorded as the property of the same claimant or person. (Ord. 2002-04, 2002)

16-04-1870 PLANNING COMMISSION.

"Planning commission" means the Enterprise City planning commission. (Ord. 2002-04, 2002)

16-04-1980 PRELIMINARY APPROVAL.

"Preliminary approval" is an approval, with or without recommended alterations, given to a preliminary plat by the ~~Administrative Land Use Authority~~ ~~planning commission~~ and provides the necessary authority to proceed with the preparation and presentation of the final plat. (Ord. 2002-04, 2002)

16-04-19200 PRELIMINARY PLAT.

"Preliminary plat" is a map or plan of a proposed land division or subdivision prepared in accordance with regulations of this title governing preliminary plats. (Ord. 2002-04, 2002)

16-04-2160 ~~CONCEPT PLAN~~SKETCH PLAN:

~~"Concept plan~~Sketch plan" is a preliminary map or pre-application plat showing the concept of the proposed development or subdivision having sufficient detail to illustrate on-site characteristics of the proposed subdivision and adjacent parcels. (Ord. 2002-04, 2002)

16-04-2240 SUBDIVISION.

"Subdivision" means the division of a tract, or lot or parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of sale or of building development or redevelopment. (Ord. 2002-04, 2002)

16-04-2320 SUBDIVISION, MINOR.

"Minor subdivision" is a subdivision proposed in accordance with this title governing minor subdivisions. (Ord. 2002-04, 2002)

16-04-240 SUBDIVISION IMPROVEMENT PLANS.

"Subdivision Improvement Plans" means the civil engineering plans associated with the required infrastructure improvements and municipally controlled utilities required for a subdivision.

16-04-2530 SUBDIVIDER.

"Subdivider" is a person or group of people who divide and develop property for the purpose, whether immediate or future, of sale or of building development or redevelopment. (Ord. 2002-04, 2002)

**Chapter 16-08
SUBDIVISION, MINOR**

Sections:

~~16-08-010 Purpose~~ ~~General Provisions.~~

~~16-08-020 Required Conditions.~~

~~16-08-030 Minor Subdivision Application.~~

~~16-08-040 Submittal Contents.~~

~~16-08-050 Site Specific Contents.~~

~~16-08-060 Review and Approval Process.~~

~~16-08-070 Filing a Record of Survey.~~

~~16-08-080 Expiration of Planning Commission Approval.~~

16-08-010 PURPOSE.

Utah State Code provides an exemption from many subdivision requirements for subdivisions with ten (10) or fewer lots. The purpose and intent of this minor subdivision process is to take advantage of the Utah State Code exemption to allow for subdivisions with no more than ten (10) lots to be processed as quickly as possible. This chapter outlines a separate process for these smaller subdivisions. In this process, an applicant may elect to divide property through a metes and bounds record of survey.

16-08-0240 REQUIRED CONDITIONS ~~GENERAL PROVISIONS.~~

A "Minor subdivision" may be distinguished from a regular subdivision if certain criteria are met. In order to create a minor subdivision, a developer must meet all of the following criteria:

Formatted: Font: Not Bold

- A. There must be fewer than ten (10) lots.
- B. Before a lot is sold all utility distribution lines, fire hydrants, storm drainage concerns, etc. shall be installed and met in accordance with City requirements, line extension policies, etc.
- C. The development must not require dedication of property, including property for a street or other public purpose. All lots must abut on a dedicated, improved paved street.
- D. Before a lot is sold each applicable department head shall certify by their signature that all applicable requirements have been met.
- E. All lots in the “minor subdivision” must meet the zoning requirements of size, width, and frontage.
- F. Doing more than one minor subdivision on a contiguous piece of property does not meet the required criteria of a “minor subdivision”.

If any of the “minor subdivision” requirements cannot be met, the subdivider must follow the regular subdivision criteria. If the above criteria are met, the developer need not prepare an engineered plat map. The development can be approved on metes and bounds on a stamped survey map. Any parcels with questionable drainage may require special drainage Engineering approved by the City. All other requirements of a subdivision ordinance, including the posting of a bond for infrastructure, can be required of the developer. (Ord. 2002-04, 2002)

16-08-030 MINOR SUBDIVISION APPLICATION.

The subdivider of a Minor Subdivision shall submit an application to the City along with the application fee set by the City Council and an electronic copy of the subdivision showing the land to be subdivided, properly and accurately drawn to scale and with sufficient additional information to determine the boundaries of the proposed subdivision. The Record of Survey shall be certified as to the accuracy by a licensed land surveyor.

16-08-040 SUBMITTAL CONTENTS.

A Minor Subdivision application shall include Subdivision Improvement Plans meeting the requirements outlined in 14-24-040, as applicable, and shall at a minimum contain the following:

- A. A title report showing ownership by the applicant.
- B. Name of the applicant or authorized agent and contact information.
- C. Property address, acreage, boundary, and tax identification number.
- D. Date, scale, and North arrow.
- E. Vicinity map showing the location of property relative to municipal boundaries, and roads that serve the property.
- F. A statement containing the zone, lot size, and amount of frontage along a public street for each proposed lot.
- G. A metes and bounds description of the property proposed for the minor subdivision.
- H. A subdivision name.
- I. A record of survey map, showing each new lot, which includes the following details:
 - 1. The location of survey by quarter section and township range.

2. The date of survey.
3. The scale drawing and North Point.
4. The distance course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision.
5. All measured bearings, angles, and distances separately indicated from those of record.
6. A written boundary description of the property surveyed.
7. All monuments set and their relation to older monuments found.
8. A detailed description of monuments found and monuments set, indicated separately.
9. The surveyor's seal or stamp.
10. The surveyor's business name and address.
11. A written narrative that explains and identifies:
 - a. The purpose of the survey.
 - b. The basis on which the lines were established.
 - c. The found monuments and deed elements that controlled the established or reestablished lines.
12. If the narrative is a separate document, it shall contain:
 - a. The location of the survey by quarter section and by township and range.
 - b. The date of the survey.
 - c. The surveyor's stamp or seal.
 - d. The surveyor's business name and address.
13. The map and narrative shall be referenced to each other if they are separate documents.

16-08-050 SITE SPECIFIC CONTENTS.

The following documents shall accompany the Minor Subdivision application when deemed necessary by the City:

- A. Soils Report: The applicant shall provide a detailed soils report addressing the following issues for the subdivision: hillside stabilization, road design, foundation design, groundwater impacts, and general soil stability. The report must be stamped and signed by a civil engineer licensed in the state of Utah.
- B. Storm Water Plan: The applicant shall provide a detailed storm water plan for the subdivision. This plan shall include all calculations showing that it meets all applicable codes, standards, and specifications. Plans and calculations shall be stamped and signed by a civil engineer licensed in the state of Utah.
- C. Other Hazard Information: This may include FEMA floodplain information or other information to mitigate natural hazards.

16-08-060 REVIEW AND APPROVAL PROCESS.

The intent of this process is to provide timely review and approval of all complete applications, as follows:

- A. Optional Pre-Application Meeting: An applicant may request to meet with City staff and/or representatives prior to submittal to review the application and requirements.
- B. Preliminary Review: The applicant shall submit the application and all required contents. The City will check the application for completeness. If all materials have not been submitted, the application shall be returned to the applicant until all required contents are included.
- C. Administrative Review: Once the application is deemed to be complete, the City will review the application to ensure that all information has been included and that the application meets all requirements. If all the requirements are met, the project shall be forwarded to the Planning Commission for review and possible approval.
- D. Planning Commission Review: The Planning Commission shall review the application. If the Planning Commission determines that the application does meet all requirements, an applicant may request that the motion be tabled until all requirements are met.
 - 1. If the applicant meets all applicable requirements, the Planning Commission shall approve the minor subdivision application. If the applicant is unable or unwilling to meet all applicable requirements, the Planning Commission shall deny the minor subdivision application.

16-08-070 FILING A RECORD OF SURVEY.

- A. After the Planning Commission has approved the minor subdivision application, the City shall create a written certificate of approval to accompany the record of survey. At a minimum, the document shall be notarized by the City Recorder, and the name of the subdivision, the number of lots, and the date of Planning Commission approval shall be specified.
- B. The applicant shall provide a check sufficient to cover the recording fees.
- C. Within one (1) year of approval, the Record of Survey, with the accompanying written certificate of approval, shall be filed in the Office of the Washington County Recorder.

16-08-080 EXPIRATION OF PLANNING COMMISSION APPROVAL.

If a Record of Survey is not filed within one (1) year from the date of approval by the Planning Commission, the approval is considered to have lapsed. The applicant will then need to obtain a new approval and comply with any new regulations that may have been implemented.

Formatted: Font: 11 pt

**Chapter 16-12
SUBDIVISION PROCEDURE**

Sections:

- 16-12-010 General Provisions.
- 16-12-020 Withholding approval--Notification of other agencies.
- 16-12-030 Exceptions.

16-12-010 GENERAL PROVISIONS. Before subdividing any tract of ~~land~~land, a subdivider shall:

~~A. File a "Preliminary Intent to Subdivide" form with the City and pick up a "Subdivision Packet" from the City;~~

~~B. Meet with the planning commission to present a sketch plan of the proposed subdivision;~~

~~C. A. File three copies of the preliminary plat with the planning commission for approval or disapproval. The preliminary plat shall be prepared in conformance with the provisions of this title.~~

~~D. Not more than one year after receiving approval of the preliminary plat submit the original and one copy of the final plat to the planning commission for action. The planning commission may extend the one-year time limit an additional one year for just cause.~~

~~E. Upon receiving approval by the planning commission of the final plat, submit the approved plat to the Enterprise City Council within ninety days.~~

~~F. B. Following City Council approval of the final plat, the subdivider shall present the final plat, bearing the required signatures, to the County Recorder and pay all recording fees. The City Council approval of the final plat shall be void if not recorded within one year after the date of approval, unless application for an extension of time is made in writing to the City Council and granted during the one-year period. (Ord. 2002-004)~~

16-12-020 WITHHOLDING APPROVAL--NOTIFICATION OF OTHER AGENCIES.

The planning commission may withhold approval of a preliminary plat for one year if all or part of the area to be subdivided may be needed for a park, school, street, or other public purpose. The planning commission should notify the appropriate agency in writing of the proposed subdivision. If proper means have not been initiated to acquire the desired property within one year, the owner may then proceed with the process in compliance with the provisions of this title. (Ord. 2002-04, 2002)

16-12-030 EXCEPTIONS. Where unusual topographic or other exceptional conditions exist, the ~~Enterprise City Council~~ may vary the requirements of this title ~~after receiving the recommendations of the planning commission~~; provided, that such variations will not substantially impair the intent of this title. (Ord. 2002-04, 2002)

Chapter 16-16

PRE-APPLICATION PROCESS SKETCH PLAN

Sections:

16-16-010 ~~Pre-Application Meeting Requirements--Contents.~~

16-16-020 ~~Concept Plan Requirements--Sketch plan meeting.~~

16-16-010 PRE-APPLICATION MEETING.

All proposed subdivisions must meet the application requirements outlined in Utah State Code 10-9a-601, et seq, as amended, this title, and the requirements for the respective zone in which the subdivision is proposed.

An applicant for a subdivision may request a pre-application meeting with a City representative. Should a pre-application meeting be requested, the following shall apply:

- 14. The applicant shall submit a concept plan for review.
- 15. Within fifteen (15) business days after the request, the municipality shall schedule the meeting to review the concept plan and give initial feedback.
- 16. At the pre-application meeting, the City shall provide or have made available on the municipal website the following:
 - a. Copies of the applicable land use regulations.
 - b. A completed list of standards required for the project.
 - c. Preliminary and Final Plat checklists.
- 17. A pre-application review of a concept plan does not create any vested rights, and feedback on the concept plan does not grant or infer any official standing.

Formatted: Font: Bold

Formatted: Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.25" + Tab after: 1.5" + Indent at: 1.5"

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: List Paragraph, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

Formatted: Font: (Default) Aptos, 11 pt, Bold

16-16-020 CONCEPT PLAN REQUIREMENTS-CONTENTS.

The ~~Concept Plans~~ sketch plan shall comply with the following requirements:

- A. ~~Concept Sketch~~ Plan Information. A ~~Concepts sketch~~ Pplan shall be prepared showing the concept of the proposed subdivision. The ~~Concepts sketch~~ Pplan shall consist of a general site plan with sufficient detail to illustrate on-site characteristics of the proposed subdivision and adjacent parcels.
- B. The ~~Concepts sketch~~ Pplan should include such information as:
 - 1. Existing features:
 - a. topography
 - b. structures
 - c. streets
 - d. easements
 - e. drainage channels
 - f. utility lines
 - g. existing land uses
 - 2. Proposed features:
 - a. Layout of streets;
 - b. Numbers and dimensions of lots;
 - c. Dedicated parcels of land;
 - d. Setback lines;
 - e. Easements;
 - f. Street cross sections;
 - g. Drainage channels. (Ord. 2002-04, 2002)

~~16-16-020~~ **REQUIREMENTS--SKETCH PLAN MEETINGS:**

The sketch plan will be reviewed by:-

- ~~a. the developer and the staff and;~~
- ~~b. the developer and the planning commission.~~

~~At the sketch plan meetings the City will be informed of the developer's subdivision plan. No binding commitments may be made and no formal action by the planning commission or City Council is required at this time. The intent of these meetings is to provide a mutual exchange of information. The preliminary plat should be prepared in accordance with information discussed at these meetings in addition to complying with other parts of this title. (Ord. 2002-04, 2002)~~

**Chapter 16-20
PRELIMINARY PLAT**

Sections:

- ~~16-20-010 Preliminary Plat Review Process~~
- ~~16-20-020 Preliminary Plat Approval Process,~~
- ~~16-20-03+0 Preliminary Plat Submittal Requirements.~~
- ~~16-20-020 Approvat.~~

Formatted: Font: Not Bold

16-20-010 PRELIMINARY PLAT REVIEW PROCESS

~~Unless otherwise exempted in this Title, any division of land requires completion of a Preliminary Plat and Final Plat. The following outlines the review process for a Preliminary Plat, as intended by Utah State Code 10-9a-604. If there is any conflict in content or interpretation, Utah State Code shall prevail.~~

- ~~A. If the application requires legislative approvals, such as a zone change, annexation, general plan amendment, right of way or easement vacation, or any other legislative action, the legislative approval shall be completed prior to the submittal of the Preliminary Plat application.~~
- ~~B. The applicant may request a pre-application meeting with a City representative to discuss the proposal and submittal requirements. If requested, the City and applicant shall follow the process outlined in 16-16-010.~~
- ~~C. The City shall provide, or have available on the City website, each of the following:
 - ~~1. The Preliminary Plat application.~~
 - ~~2. The owner's affidavit.~~
 - ~~3. A breakdown of the application fees,~~
 - ~~4. A complete list of standards required for the project.~~
 - ~~5. The Preliminary Plat checklist.~~~~
- ~~D. The applicant shall submit an application that includes the Preliminary Plat and all required documentation and information.~~

Formatted: Font: Not Bold

- E. The City checks the submittal for completeness.
1. If the submittal includes all materials, the City receives the submittal and starts the review cycle.
 2. If the submittal is deemed incomplete, the submittal is returned to the applicant. No review shall commence until the City determines the application is complete.
- F. If the location of the proposed subdivision is within one hundred feet (100') of a Water Conveyance Facility, within twenty (20) calendar days after receipt of the complete application, the City shall notify in writing the Water Conveyance Facility Owner(s) of the application and request comments related to the following aspects of the Water Conveyance Facility: access, maintenance, protection, safety, and any other related issues.
1. Any Water Conveyance Facility shall have at least twenty (20) days to respond. While the City may provide comments to the applicant before this twenty (20) day window is complete, the Administrative Land Use Authority shall not grant approval until at least (20) days after the day on which the City mailed notice to the Water Conveyance Facility.
 2. Water Conveyance Facility: Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or stormwater drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. See Utah State Code 73-1-15.5-1b.
- G. Within thirty (30) business days, the City shall complete a review of the Preliminary Plat and provide comments on the application.
1. The review cycle number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed-use.
- H. Within the review window in subsection G, the City shall complete a review of the Preliminary Plat and submittal contents and provide a response to the applicant. The City shall determine whether the application meets all requirements or requires corrective actions and shall notify the applicant in a written response:
1. If the application is found to require corrections, the City shall be specific and shall cite the ordinance, statute, or specification that requires the modification. Comments shall be logged in an index of requested modifications or additions. The required corrections are sent to the applicant to prepare for resubmittal.
 2. The City may require additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards.
 3. If the applicant is found to meet all codes, standards, and specifications, the application is forwarded to the Administrative Land Use Authority.
- I. After receiving the list of required modifications or additions, the applicant's resubmittal shall include a written explanation in response to each of the City's review comments, identifying and explaining the applicant's revisions or reasons for declining to make the revisions.

Formatted: Font: Not Bold

- J. The City shall review the resubmittal to ensure that the applicant has responded to each item logged in the index of requested modifications or additions. If the response does not address each item, the City shall return the submittal to the applicant.
 - 1. If the resubmittal is complete, the City shall review the application and provide written comment within the review window as outlined in subsection G.
 - 2. The review window number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed-use, nor does it apply to any legislative approval.
- K. If the City determines that the resubmittal is complete and meets all codes, standards, and specifications, it shall be forwarded to the Administrative Land Use Authority for review and approval.
 - 1. If the City finds the resubmittal does not comply with all applicable codes, standards, and specifications, another review letter and index of requested modifications or additions shall be created and sent to the applicant. This shall be provided to the applicant up until the fourth review cycle, at which point the application shall be forwarded to the Administrative Land Use Authority for review with a recommendation that the application does not meet all codes, standards, and specifications. The applicant may appeal this determination as outlined in Utah State Code 10-90a-604.2(11), as amended.
- L. If, on the fourth and final review, a municipality fails to respond within thirty (30) business days, the municipality shall, upon request of the property owner, and within ten (10) business days after the day on which the request is received:
 - 1. The City shall advise the applicant, in writing, of the application's deficiency and the right to appeal the determination to a designated appeal authority.
 - a. The appeal authority for the Preliminary Plat shall be the City Council.

16-20-020 PRELIMINARY PLAT APPROVAL PROCESS.

After review, the application shall be submitted to the Administrative Land Use Authority for approval.

- A. For the Preliminary Plat, the Administrative Land Use Authority shall be the Planning Commission.
 - a. Legislative approvals, such as zone changes, overlay zones, general plan amendments, annexations, right-of-way vacations, etc., must be approved by the City Council prior to the submission of a Preliminary Plat application.
- B. If the Administrative Land Use Authority finds that the application complies with the applicable municipal ordinances and the requirements of Utah State Code, it shall approve the Preliminary Plat application.
 - a. The Administrative Land Use Authority shall remand the application back to the applicant for corrections if it finds:
 - i. The applicant has not completed all requirements as outlined in the review index or

Formatted

Formatted: Font: (Default) Aptos, 11 pt

- ii. The application does not address all requirements as outlined in Utah State code, and although the item was not addressed in the first review, the requirement relates directly to public health and safety.
 - b. The Administrative Land Use Authority shall deny the application if the applicant is unwilling to make the required corrections or provide the required information.
 - C. The application approval shall lapse in instances where a developer abandons or otherwise fails to take timely action to address corrections or complete a project.
 - a. A Preliminary Plat application expires if it is not approved by the City within one (1) year from the time the application is submitted and accepted.
 - b. Approval of the Preliminary Plat by the City shall be valid for a period of one (1) year after approval.

Formatted: List Paragraph, Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

Formatted: Font: (Default) Aptos, 11 pt

16-20-030 PRELIMINARY PLAT SUBMITTAL REQUIREMENTS.

- A. The preliminary plat shall comply with the following requirements:
 - 1. Description. In a title block located in the lower ~~right hand~~right-hand corner of the sheet shall appear the following:
 - a. The proposed name of the subdivision;
 - b. The location of the subdivision including the address and the section, township and range;
 - c. The names and addresses of the owner, the subdivider if other than the owner and the surveyor of the subdivision;
 - d. Date of preparation, scale (logical to the size of the project) and north point.
 - 2. Existing Conditions. The preliminary plat shall show:
 - a. The location of the nearest benchmark and all monuments used in the legal description;
 - b. The boundary of the proposed subdivision and the acreage included;
 - c. All adjoining property under the control of the subdivider, even though only a portion is being subdivided. Where the plat submitted covers only a part of the subdivider's tract, a sketch of the prospective street system of the unplatted parts of the subdivider's land shall be submitted, and the street system of the part submitted shall be considered in the light of existing master street plans or other planning commission studies;
 - d. The location, width and names of all existing streets within two hundred fifty feet of the subdivision and of all prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements and section and corporation lines, within and adjacent to the tract;

- e. The location of all wells, proposed, active and abandoned, and of all reservoirs within the tract and to a distance of at least two hundred fifty feet beyond the tract boundaries;
 - f. Existing sewers, water mains, fire hydrants, culverts or other public facilities or infrastructures within the tract and to a distance of at least two hundred fifty feet beyond the tract boundaries, indicating pipe sizes, grades, manholes and exact location;
 - g. Existing ditches, canals, natural drainage channels, storm drainage and open waterways;
 - h. Existing right-of-way and easement grants of record for underground and other facilities together with all other encroachments affecting this property.
 - i. Boundary lines of adjacent tracts of un-subdivided land, showing ownership where possible;
 - j. Contour at vertical intervals of not more than one foot. High-water levels of all watercourses, if any, shall be indicated in the same datum for contour elevations.
 - k. The location of any and all flood plains within 250 feet of property boundary lines.
3. Proposed Plan. The preliminary plat shall show:
- a. The layout of streets, showing location, widths and other dimensions of (designated by actual or proposed names and numbers) proposed streets, crosswalks, alleys and easements;
 - b. The layout, numbers, typical dimensions and lot size in acres;
 - c. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
 - d. All utility lines and fire hydrants;
 - e. Easements for water, sewers, drainage, utility lines and other purposes;
 - f. Typical street cross-sections and grades for proposed streets;
 - g. A plan by which the subdivider will handle storm water drainage for the subdivision.
 - h. Any other matter reasonably required by the City and determined to be necessary by the City Staff.
4. Copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the planning commission with the preliminary plat. (Ord. 2002-04, 2002)

~~16-20-020 APPROVAL:~~

~~A. – The planning commission, City Engineer and other interested City departments shall review the preliminary plat and visit the site of the proposed subdivision. Following this investigation, the planning commission shall approve the preliminary plat as submitted or~~

~~modified, or disapprove the plat. The planning commission shall not take action to approve or disapprove the plat until written approval is received from each of the interested City departments:~~

~~B. If the preliminary plat is approved, the planning commission shall return one copy of the plat signed by the planning commission chairman to the subdivider with any conditions attached. The City shall retain one signed copy of the plat for its files. If the preliminary plat is disapproved, the planning commission shall indicate its disapproval in writing:~~

~~C. The receipt of a signed copy of the approved preliminary plat shall authorize the subdivider to proceed with the preparation of the final plat. (Ord. 2002-04, 2002)~~

Chapter 16-24 FINAL PLAT

Sections:

- 16-24-010 ~~Final Plat Review Process.Preparation:~~
- 16-24-020 ~~Final Plat Approval Process.Descriptions and delineations, etc.:~~
- 16-24-030 ~~Final Plat Submittal Requirements.Standard forms:~~
- 16-24-040 ~~Subdivision Improvement Plans.Information to be submitted:~~

16-24-010 FINAL PLAT REVIEW PROCESS

~~Within one (1) year of approval of a Preliminary Plat, a Final Plat prepared by a licensed surveyor not employed by the City shall be submitted in conformance with this Title. If a complete application is not submitted within one (1) year of Preliminary Plat approval, the approval is deemed to have expired.~~

~~Review: The following outlines the review process, as intended by Utah State Code 10-9a-604, as amended. If there is any conflict in content or interpretation, Utah State Code shall prevail.~~

- ~~A. The City shall maintain and publish a list of items comprising a complete Final Plat application, including:
 - 1. The application.
 - 2. The owner's affidavit.
 - 3. An electronic copy of all plans in PDF format.
 - 4. The breakdown of fees due upon approval of the application.~~
- ~~B. The applicant shall submit a complete application, including the Final Plat, the Subdivision Improvement Plans, and all required documentation and information.~~
- ~~C. The City shall check the submittal for completeness.
 - 1. If the submittal includes all required materials, the City shall receive the submittal and start a review.
 - 2. If the submittal is incomplete, it shall be returned to the applicant. No review of the application shall commence until the City has determined that the applicant has submitted a complete application.~~

D. Within forty (40) business days, the City shall complete a review of the Final Plat and Subdivision Improvement Plans, except as follows:

1. The review cycle dates restrictions and requirements do not apply to the review of subdivision applications affecting property within identified geological hazard areas.
2. The review cycle number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed-use.

E. If the location is within one hundred feet (100') of a Water Conveyance Facility, within twenty (20) calendar days after receipt of the completed application, the City shall notify in writing the Water Conveyance Facility Owner(s) of the application and request comments related to the following aspects of the Water Conveyance Facility: access, maintenance, protection, safety, and any other issues related.

1. Any Water Conveyance Facility shall have at least twenty (20) days to respond. While the City may provide comments to the applicant before this twenty (20) day window is complete, the City shall not grant approval until at least twenty (20) days after the day on which the City mailed notice to the Water Conveyance Facility.
2. Water Conveyance Facility: Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or stormwater drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. See Utah State Code 73-1-15.5-1b.

F. During the review window, the City Attorney shall review the Final Plat and shall recommend approval if the attorney finds that:

1. There is a current title opinion from a licensed title company showing that the person dedicating the property described on the Final Plat is the title owner, as shown on the records of the Washington County Recorder's Office.
2. The performance bond, escrow deposit, letter of credit, or trust deed with the City is in appropriate form and signed by the necessary parties.
3. That the subdivision does not, in the attorney's opinion, violate any ordinance of the City, laws of the State of Utah, or rules and regulations promulgated pursuant thereto.

G. Within the review window in subsection D, the City shall complete a review of the Final Plat, Subdivision Improvement Plans, and submittal contents and provide a response to the applicant. The City shall determine whether the application meets all requirements or requires corrective actions and shall notify the applicant in a written response:

1. If the application is found to require corrections, the City shall be specific and cite the ordinance, statute, or specification that requires the modification. Comments shall be logged in an index of requested modifications or additions. The required corrections are sent to the applicant to prepare a resubmittal.
2. The City may require additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards.

Formatted: Font: 11 pt

3. If the applicant is found to meet all codes, standards, and specifications, the application is forwarded to the City Administrator for review and approval.
- H. If corrections are required, the applicant shall provide a resubmittal. The resubmittal shall include a written explanation in response to each of the municipality's review comments, identifying and explaining the applicant's revisions or reasons for declining to make a requested revision.
- I. The City shall check the resubmittal to ensure that the applicant has responded to each item logged in the index of requested modifications or additions. If the response does not address each item, the City shall return the submittal to the applicant.
1. If the resubmittal is complete, the City shall accept the application for a second review cycle. The time frame to complete the review depends on how quickly the applicant responded to the corrections in full and whether the applicant made any material changes.
- a. If the applicant responds within forty (40) business days, the City has forty (40) business days to complete the second review cycle.
- b. If the applicant responds after forty (40) business days, the City has sixty (60) business days to complete the second review cycle.
- c. c. If the applicant made a material change that merits a new review, the review shall restart at the first review cycle as it relates to the new material.
2. The review window number of days only applies to single-family, two-family, and townhome developments. It does not apply to other land uses, such as commercial, industrial, or mixed-use, nor does it apply to any legislative approval.
- J. If the City neglects to include a required change or correction in the initial review process, the modification or correction can only be imposed on subsequent reviews if necessary to protect public health and safety or to enforce state or federal law.
- K. If the City determines that the resubmittal is complete and meets all codes, standards, and specifications, it shall be forwarded to the City Administrator for review and approval.
1. If the City finds the resubmittal does not comply with all applicable codes, standards, and specifications, another review letter and index of requested modifications or additions shall be created and sent to the applicant. This shall be provided to the applicant up until the fourth review cycle, at which point the application shall be forwarded to the City Administrator for review with a recommendation that the application does not meet all codes, standards, and specifications. The applicant may appeal this determination as outlined in Utah State Code 10-9a-604.2(8), as amended.
- L. If on the fourth and final review, the City fails to respond within thirty (30) business days, the City shall, upon request of the property owner, and within (10) business days after the day on which the request is received:
1. For a dispute arising from the subdivision improvement plans, assemble an appeals panel in accordance with Utah State Code 10-9a-508(5)(d) to review and approve or deny the final revised set of plans or

Formatted

Formatted: Font: 11 pt

Formatted

Formatted: Font: 11 pt

2. For a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the application's deficiency and of the right to appeal the determination to a designated appeal authority.
 - a. The appeal authority shall be the City Council.

16-24-020 FINAL PLAT APPROVAL PROCESS

After the review cycle process has been completed, the application shall be submitted to the City Administrator for approval.

A. The City Administrator shall be the land use authority for Final Plat approval. Final Plat approval may not require City Council or Planning Commission approval. (See Utah State Code 10-9a-604.1)

1. No public hearing for the Final Plat approval may be held.

B. The City Administrator shall approve the Final Plat if they find:

1. The proposed plat complies with the requirements of the City Code, Utah State Code, and all other applicable policies and regulations.

- a. The plat has been approved by the culinary water authority.
- b. The plat has been approved by the sanitary sewer authority, and
- c. If applicable, the health department has approved the plat.

2. The City Administrator may deny or remand the proposed Final Plat if:

- a. The City Administrator finds the applicant has not provided a complete, accurate, and satisfactory response to all comments during review and any other point of non-compliance with applicable regulations.
- b. The applicant is unwilling to make the required corrections or provide the required information.
- c. Any appeal shall be consistent with the provisions of Utah State Code 10-9a-604.2.

C. Once all requirements have been met, redline corrections made, and the City Administrator has approved the Final Plat, the applicant shall submit a twenty-four-inch by thirty-six-inch (24"x36") mylar drawing of the corrected final subdivision plat that meets the requirements of the Office of the Washington County Recorder, with the signatures of the owners and other signatures as required by the City.

Formatted: List Paragraph, Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25"

Formatted: Font: 11 pt

16-24-0130 FINAL PLAT SUBMITTAL REQUIREMENTS PREPARATION.

The final plat shall be prepared by a licensed Engineer or land surveyor and be submitted in an ~~must be prepared by a licensed Engineer or land surveyor~~ acceptable PDF format. The Subdivision Improvement Plans shall be submitted with the Final Plat application, ~~on an approved permanent reproducible sheet such as Mylar with water proof permanent ink~~. The top of the plat shall be either north or east, whichever accommodates the drawing best. The final plat shall contain all information required on the preliminary plat, all required changes, ~~and~~ shall comply with this chapter, ~~and shall contain the following~~. (Ord. 2002-04, 2002)

~~16-24-020~~ — ~~DESCRIPTIONS AND DELINEATIONS, ETC.~~

~~A.~~ A. ~~Descriptions and Delineations, ETC.~~ The final plat shall show:

- ~~A-1.~~ A-1. The name of the subdivision, which name must be approved by the City and the County Recorder.
- ~~B-2.~~ B-2. Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features;
- ~~C-3.~~ C-3. An identification system for all lots and blocks and names of streets. Lot lines shall show dimensions in feet and hundredths;
- ~~D-4.~~ D-4. True angles and distances to the nearest established street lines or official monuments, which shall be accurately described in the plat and shown by appropriate symbol;
- ~~E-5.~~ E-5. Radii, internal angles, points and curvatures, tangent bearings and the length of all arcs;
- ~~F-6.~~ F-6. The accurate location of all monuments and fire hydrants to be installed shown by the appropriate symbol. All United States, state, county, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position;
- ~~G-7.~~ G-7. The dedication to the City of all streets and highways included in the proposed subdivision. Street monuments shall be installed by the subdivider's Engineer or land surveyor at such points designated on the final map as are approved by the City Engineer. Standard precast monuments will be furnished by the subdivider and must be placed prior to the release of the improvement bond;
- ~~H-8.~~ H-8. Capped rebar or other such permanent physical markers as shall be placed at each lot corner;
- ~~I-9.~~ I-9. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners;
- ~~J-10.~~ J-10. Where it is proposed that streets be constructed on property controlled by a public agent or utility company, approval for the location, improvement, and maintenance of such streets shall be obtained from the public agency or utility company and entered on the final plat in a form approved by the City attorney. (Ord. 2002-04, 2002)

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: List Paragraph, Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25"

Formatted

~~16-24-030~~ — ~~STANDARD FORMS.~~

~~B.~~ B. The final plat shall require:

- ~~A-1.~~ A-1. A registered professional Engineer or land surveyor's certificate of survey;
- ~~B-2.~~ B-2. The owner's certificate of dedication including a notary public's acknowledgment;
- ~~C-3.~~ C-3. The consent of any party holding any mortgage or other security interest.
- ~~D-4.~~ D-4. The consent of the owner or operator of underground and utility facilities as required by law;

Formatted: Font: 11 pt

Formatted: List Paragraph, Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25"

Formatted

- ~~E. The City planning commission's certificate of approval;~~
- ~~F.5. The City Engineer's certificate of approval;~~
- ~~G.6. The City attorney's certificate of approval;~~
- ~~H.7. The City Council's certificate of approval and~~ all other signatures as deemed necessary;
- ~~I.8. A one-and-one-half by five-inch space in the lower right hand right-hand corner of the drawing for the county Recorder's use. (Ord. 2002-04, 2002)~~

Formatted: Indent: Left: 0.5", No bullets or

Formatted

~~16-24-040 INFORMATION TO BE SUBMITTED.~~

~~C. Information to be Submitted:~~ The following information shall be submitted:

- ~~A.1. A statement from both the County and City Treasurer that all taxes or special assessments payable on all property within the limits of the subdivision are paid in full, or a letter stating that a satisfactory bond has been filed to secure such payment;~~
- ~~B.2. A title report showing all encumbrances on all property within the limits of the subdivision and demonstrating no encumbrances, unless expressly approved, except as necessary for utility service.~~
- ~~C.3. An itemized estimate of the cost of all proposed or required improvements, including labor and material to be approved by the City Engineer;~~
- ~~D.4. One copy of the proposed deed restrictions in final form and signed by all of the owners of any interest in the subdivision who sign the final subdivision map. This copy shall be acknowledged by a notary public and shall be recorded in the office of the county Recorder along with the final plat. City approval is required prior to any changes being recorded;~~

Formatted: Font: 11 pt

Formatted: List Paragraph, Outline numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 3 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25"

Formatted

~~E. Two reproducible originals (permanent reproducible such as Mylar) of the final plat shall be submitted, one of which will be retained for City files and the other of which will be sent to the county Recorder for final plat recording. (Ord. 2002-04, 2002)~~

Formatted: Font: 11 pt

Formatted: Normal, Indent: Left: 0.5", No bullets or numbering

~~16-24-040: SUBDIVISION IMPROVEMENT PLANS: Subdivision Improvement Plans shall be submitted with the Final Plat application, be prepared by an engineer licensed in the State of Utah, and shall include the following information:~~

- ~~A. North arrow.~~
- ~~B. Elevations referenced to USGS datum.~~
- ~~C. Chapter block located on the right side of the sheet to include:

 - ~~1. Project chapter.~~
 - ~~2. Specific type and location of work.~~
 - ~~3. Name of engineer or firm preparing the Subdivision Improvement Plans with his or her signature(s). A Utah engineer's stamp shall be required on all pages of the Subdivision Improvement Plans.~~~~
- ~~D. Scale shall be acceptable to the City Engineer.~~
- ~~E. Plan view and profiles of the relationship of the street to curb and gutter is required for all public and private roads. Top-of-curb elevations with curve data must be shown for all curb returns.~~

There must be enough information to establish roads on the ground with top-of-curb elevation at all curb returns.

F. Utility plans showing the size, type, and location of the following:

1. Culinary water laterals, mains, meters, valves, and fire hydrants.
2. Secondary and irrigation laterals, mains, meters, valves, etc.
3. Sanitary sewer, storm drains and subdrains and their manholes, inlet boxes, catch basins, and clean outs.
4. Power, natural gas, and cable television.
5. Streetlights.
6. Any other utilities the City may require.
7. All walls and fences to be constructed.
8. All easements and rights-of-way.

G. A grading plan showing existing and proposed topography.

H. Separate Sheets with Details: As needed, each set of plans shall be accompanied by a separate sheet of details for structures that are to be constructed. All structures shall be designed in accordance with minimum requirements established by City Standards.

Formatted: Font: 11 pt

Formatted: Normal

Chapter 16-28 IMPROVEMENTS

Sections:

- 16-28-010 City certification of improvements.
- 16-28-020 Performance Bond.
- 16-28-030 Storm drainage.
- 16-28-040 Streets.
- 16-28-050 Water.
- 16-28-060 Power.
- 16-28-070 Sewer and Sewage disposable.
- 16-28-080 Guarantee of Improvements.

16-28-010 CITY CERTIFICATION OF IMPROVEMENTS.

No final plat of a subdivision of land shall be recorded, except as provided in Section 16.28.020, without receiving a statement signed by the City Recorder certifying that the improvements described in the subdivider's plans and specifications have been completed, that they meet the minimum requirements of all ordinances, policies, procedures and departments of the City. All improvements shall be dedicated and relinquished to the City after final acceptance of such by the City. (Ord. 2002-04, 2002)

16-28-020 PERFORMANCE BONDS.

- A. The subdivider may, in lieu of the actual completion of the improvements listed in this chapter, file with the City Recorder a surety or cash bond to assure the actual construction of such improvements within a period of two (2) years in a satisfactory manner. This surety of cash bond shall be issued in the amount of one hundred twenty five percent (125%) of the costs of improvements not previously accepted by the municipality. The amount of the bond shall be estimated by the City Engineer and shall be sufficient to warrant that required infrastructure, in the subdivision not previously accepted by the municipality, can be completed with the bond funds.
- B. Upon completion of the improvements for which a surety or cash bond has been filed, the subdivider shall call for inspection by the City. Inspections shall be made within fifteen (15) days from the date of the request. If inspection shows that City standards have been met in the completion of such improvements, the performance portion of the bonds (100 percent of the cost of the improvements) shall be released within seven (7) days from the time of inspection; the remaining amount of the bond shall remain in effect as required by section 16-28-080 below. Any claims asserted by subcontractors, suppliers, etc. for materials and/or labor may be attached to the bond before they are released. If the bonds are not released, refusal to release and the reasons therefore shall be given the subdivider in writing within seven days from the time of the inspection. (Ord. 2002-04, 2002)

16-28-030 STORM DRAINAGE.

- A. A storm water drainage system subject to the approval of the City Engineer shall be provided; and shall be separate and independent of any sanitary sewer system. The final plans for the drainage system shall be prepared by a licensed Engineer and approved by the City Engineer. The City upon the advice of the City Engineer may require drainage study based upon a set storm interval to coincide with the City's current storm water master plan. The City upon the advice of the City Engineer may require on-site storm water detention capabilities in order to not overtax the City storm drainage system.
- B. No ditch, canal or other waterway or drainage shall be approved as suitable for the use of storm drainage water without the written permission of the appropriate individual or agency. No ditch or canal shall be used for storm water unless adequately improved to handle such water as might be reasonably expected to flow from canal and ditch water, subdivision runoff water, and other water expected to reach such canal or ditch and must be approved by the City Engineer. (Ord. 2002-04, 2002)

16-28-040 STREETS.

- A. Prior to the commencement of construction, the subdivider shall furnish to the City Engineer a complete set of construction plans and profiles of all streets, existing and proposed, within the subdivision. Plans are to be prepared by a licensed professional Engineer and shall be accompanied by the final plat. Construction plans must be approved by the City Engineer prior to commencement of construction. The City Engineer shall, within a reasonable time not to exceed thirty days from the receipt of the plans, notify the

subdivider of approval or disapproval and in case of disapproval of the reasons therefore. Such plans and profiles shall include:

1. The designation of limits of work to be done;
 2. The location of the benchmark and its true elevation according to City datum, all profiles to be referred to that datum;
 3. Profiles which indicate the finished and existing grades for each side of the street. Separate profiles, clearly designated, shall be made for each side of the street;
 4. Construction plans which include the details of street cross sections, location, elevation of manholes, catch basins, storm sewers, elevations and location of fire hydrants and any other items that may be applicable such as curb and gutter, etc.;
 5. Complete data for field layout and office checking;
 6. On curb returns, at least two (2) additional control points for elevation besides those at points of curvature. Control points shall be staked in the field;
 7. The street address of the project.
- B. Grades of streets shall not be in excess of eight percent (8%).
- C. All streets within the subdivision shall be constructed in accordance with construction standards set forth in Title 12 on a north, south, east, west grid system except under special circumstances approved by the City.
- D. At a minimum, street lighting shall be provided at every intersection. The street lighting shall be, at the expense of the developer, installed by Enterprise City.
- E. Street trees for shade and beautification are encouraged and may be planted at the option of the developer in accordance with a planting plan approved by Enterprise City. The planting plan must show location for plantings, tree species, and specifications for typical planting.
- F. If curbs and gutters are installed they shall meet the specifications as outlined in Title 12.
- G. Storm water inlets and catch basins shall be provided at points approved by the City Engineer.
- H. All curb corners shall have a radius of not less than twenty-five feet and at intersections involving collector or major streets of not less than twenty-five feet.
- I. The arrangement of streets in new subdivisions shall make provisions for the continuation of the existing streets in adjoining areas and shall provide access to un-subdivided adjoining areas. New streets must connect with existing public streets.
- J. Minor streets shall approach the major or collector streets at an angle of not less than eighty degrees.
- K. Fire hydrants shall be installed in all subdivisions in accordance with the regulations of the City and at the developer's expense.
- L. A non-climbable chain link fence or City approved equivalent shall be installed in any area designated by the City as of potential hazardous nature.
- M. Dedicated walkways may be required by the City.

- N. Street name signs and other traffic regularity signs, conforming to the design and specifications and in the number provided by the standards, rules and regulations of the City, shall be provided by the developer at all street intersections. Installation shall be made by the City to ensure uniformity.
- O. Temporary Billboards used for advertising the subdivision shall be approved by the planning commission on a case by case basis. (Ord. 2002-04, 2002)

16-28-050 WATER.

Plans for water distribution including distribution line tap-in size must be approved by the City Engineer. All lots must be served by the City's culinary water system. Water system improvements are to be installed by the subdivider and then relinquished to the City following satisfactory inspection. (Ord. 2002-04, 2002)

16-28-060 POWER.

Plans for electrical power distribution must be approved by the City electrical department. All lots must be served by the City's electrical system. Electrical utilities are to be installed underground unless otherwise approved by the City. Electrical improvements will be installed by the City at the expense of the subdivider. (Ord. 2002-04, 2002)

16-28-070 SEWER AND SEWAGE DISPOSAL.

- A. Connection to the City Sewer System is required as per Section 13-08 of the Enterprise City code. (Ord. 2002-04, 2002)
- B. Plans for sewer distribution including distribution line tap-in size must be approved by the City Engineer. All lots must be served by the City's sewer system. Sewer system improvements are to be installed by the subdivider and then relinquished to the City following satisfactory inspection.

16-28-080 GUARANTEE OF IMPROVEMENTS.

- A. All work shall be warranted and guaranteed to remain in good condition for a period of one year after the date on the final inspection indicated in Section 16-28-020 or as determined by the City Engineer.
- B. No final plat of a subdivision of land shall be recorded unless the subdivider shall furnish to the City a bond in an amount equal to the reasonable value of the improvements required by this section. The amount of the bond shall be twenty five percent (25%) of the cost of improvements amount as estimated by the City Engineer in 16-28-020, and sufficient to warrant that required infrastructure in the subdivision shall be free from defects for a period of one year from final completion.
- C. Bond shall be payable to the City of Enterprise, shall be executed by a surety company duly authorized to do business in the State of Utah, or shall be a cash bond or approved letter of credit and shall be filed in the office of the City Recorder. (Ord. 2002-04, 2002)

**Chapter 16-32
STANDARDS**

Sections:

- 16-32-010 Preparation--Compliance.
- 16-32-020 Design standards generally.
- 16-32-030 Blocks.
- 16-32-040 Dedicated walkways.
- 16-32-050 Lots.
- 16-32-060 Utilities.
- 16-32-070 Completion of Improvements.

16-32-010 PREPARATION--COMPLIANCE.

Standards for design and construction specifications of all water distribution and fire hydrants, sewage disposal distribution and facilities, street improvements, curbs, gutters, storm drainage, flood-control facilities, etc. shall be prepared and kept on file by the City. All subdividers shall comply with the standards established by the City. (Ord. 2002-04, 2002)

16-32-020 DESIGN STANDARDS GENERALLY.

The design of the preliminary and final plats of the subdivision in relation to streets, blocks, lots, open spaces, and other design factors shall be in harmony with design standards recommended by the planning commission and by other departments and agencies of City government. Design standards shall be approved by the Enterprise City Council and shall include but not be limited to provisions as set out in this chapter. (Ord. 2002- 04, 2002)

16-32-030 BLOCKS.

- A. Blocks shall not exceed one thousand two hundred feet (1,200') in length.
- B. Blocks shall be wide enough to adequately accommodate two (2) tiers of lots.
- C. Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities. (Ord. 2002-04, 2002)

16-32-040 DEDICATED WALKWAYS.

Dedicated walkways through the block, area, or subdivision may be required where access is necessary as determined by the City. Such walkways shall be a minimum of four feet in width, but may be required to be wider where determined necessary by the City. The subdivider shall surface the full width of the walkway with a paved surface. Barriers may be required at each walkway entrance to prevent the use of the walkway by any motor vehicle. (Ord. 2002-04, 2002)

16-32-050 LOTS.

- A. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for buildings, and be properly related to topography, to the character of surrounding development and to existing requirements.
- B. All lots shown on the preliminary and final plats must conform to the minimum requirements of the zoning title for the zone in which the subdivision is located.
- C. Each lot shall abut on a street shown on the subdivision plat or on an existing publicly dedicated street which has become public by right of use and which is more than forty feet wide.
- D. Double frontage lots shall be prohibited except where unusual conditions make other designs undesirable
- E. Side lines of lots shall be approximately at right angles, or radical to the street lines.
- F. In general, all remnants of lots below minimum size must be added to adjacent lots, rather than allowed to remain as unusable parcels. (Ord. 2002-04, 2002)

16-32-060 UTILITIES.

Utility easements shall be designed to serve each lot in the subdivision. Easement and location shall be approved by the City. The City Council may require utilities to be located underground. (Ord. 2002-04, 2002)

16-32-070 COMPLETION OF IMPROVEMENTS.

No building permit will be issued until the subject lot has been improved with water main lines, power distribution lines, sewer main lines, curb and gutter (if required), and a dedicated improved street as approved by the City Administrator or City Council. (Ord. 2007-03, 2007)

**CHAPTER 16-36
IMPACT FEES, ENFORCEMENT, PERMITS, AND PENALTIES**

Sections:

- 16-36-010 Definitions.
- 16-36-020 Establishment of Service Area.
- 16-36-030 Findings and Purpose.
- 16-36-040 Calculation of the Maximum Allowable Impact Fees.
- 16-36-050 Actual Assessment of Impact Fees.
- 16-36-060 Time of Collection
- 16-36-070 Use of Fees
- 16-36-080 Adjustments
- 16-36-090 Accounting, Expenditure and Refund
- 16-36-100 Impact Fee Credits
- 16-36-110 Impact Fee Challenges and Appeals

16-36-010 DEFINITIONS.

- A. **“City”** means City of Enterprise, a Utah municipal corporation.
- B. **“Culinary Water Development Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, acquisition, financing and construction of additional water delivery systems and transfer of water rights and points of diversion and the planning, design, engineering, acquisition, financing and construction of physical sources to realize those water rights.
- C. **“Development Activity”** means any construction or expansion of a building, structure, or us, and change in use of a building or structure, or any changes in the use of land that creates additional demand and need for Public Facilities.
- D. **“Development Approval”** means any written authorization from the City that authorizes commencement of development activity.
- E. **“Electrical Power Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the development activity on the need for the planning, design, engineering, acquisition, financing, and construction of additional electrical generation, transmission, and distribution facilities.
- F. **“Impact Fee”** means a payment of money imposed upon Development Activity as a condition of Development Approval. For purposes of this ordinance, the Culinary Water Development Impact Fee, Electrical Power Impact Fee, Parks and Recreation Impact Fee, Public Safety Impact Fee, Roads and Streets Impact Fee, Storm Water Drainage Impact Fee, and the Wastewater Development Impact Fee shall collectively at times be referred to as the “Impact Fees”.
- G. **“Parks & Recreation Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, financing and construction for improvements to the parks and recreation system.
- H. **“Project Improvements”** – site improvements and facilities that are planned and designed to provide service for development resulting from Development Activity and necessary for the use and convenience of the occupants or users of the development resulting from a Development Activity.
- I. **“Proportionate share”** means the cost of Public Facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any Development Activity.
- J. **“Public Facilities”** – means only the following capital facilities that have a life expectancy of ten or more years and are owned or operated by or on behalf of a local political subdivision or private entity: (a) water rights and water supply, treatment, and distribution facilities; (b) wastewater collection and treatment facilities; (c) storm water, drainage, and flood control facilities; (d) municipal power facilities; (e) roadway facilities; (f) parks, recreation facilities, open space, and trails; and (g) public safety facilities.

- K. **“Public Safety Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, financing, and construction for future Public Safety resources.
- L. **“Roads and Streets Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, financing and construction and improvement of roads and streets due to the need for improvements and expansions necessary for future growth.
- M. **“Service Area”** means the geographic area designated by the City which a defined set of Public Facilities provides service within the area.
- N. **“Storm Water Drainage Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, acquisition, financing, and construction of additional storm water drainage facilities.
- O. **“System Improvements”** – the existing public facilities that are designed to provide services to Service Areas with the community at large, and future Public Facilities identified in a capital facilities plan that are intended to provide services to Service Areas with the community at large. System Improvements do not mean and/or include Project Improvements.
- P. **“Wastewater Development Impact Fee”** - the impact fee imposed as a condition precedent to issuance of a building permit that is used to offset the proportionate impact of the Development Activity on the need for the planning, design, engineering, acquisition, financing, and construction of additional sewer collection facilities. (Ord. 2007-04; Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008-05; Ord. 2008- 06)

16-36-020 ESTABLISHMENT OF SERVICE AREA.

The corporate boundaries of the City of Enterprise, as presently defined and as they may, from time to time, be modified, are hereby established as the boundaries of the service area within which the City shall calculate and impose the impact fees set forth in Section 16-36-050 of this Chapter. (Ord. 2007-04; Ord. 2007-07; Ord. 2007- 09; Ord. 2007-16; Ord. 2008-05; Ord. 2008-06)

16-36-030 FINDINGS AND PURPOSE.

The City Council hereby finds and determines:

- A. There is a need for Public Facilities for new development which have not been constructed and are required to be consistent with the City’s General Plan and to protect the public’s health, safety and welfare.
- B. The rapid and continuing growth of the City of Enterprise necessitates the imposition and collection of impact fees pursuant to law that requires development to pay its fair share of the cost of providing public facilities occasioned by the demands and needs of the

development project at service levels necessary to promote and preserve the public health, safety and welfare.

- C. The City Council hereby adopts the report from Sunrise Engineering dated September 2006, entitled "Wastewater Master Plan", and the report from Sunrise Engineering dated April 2011, entitled "Wastewater Master Plan Spreadsheet Update"; and the report from Sunrise Engineering dated September 2006, entitled "Culinary Water Master Plan"; and the report from Sunrise Engineering dated September 2006, entitled Storm Water Master Plan"; and the report from Sunrise Engineering dated September 2006, entitled "Roads & Streets Master Plan & Impact Fee Analysis"; and the report from Sunrise Engineering dated September 2006, entitled "Parks & Recreation Plan & Impact Fee Analysis"; and the report from Sunrise Engineering dated September 2006, entitled "Public Safety Impact Fee Analysis," including the related Impact Fee backup detail which establishes the costs for providing public facilities occasioned by Development Activity within the City. The City Council also hereby adopts the report from Intermountain Consumer Professional Engineers, Inc., dated May 2007, entitled "Enterprise City Impact Fee Study", for Electrical Power, including the related Impact Fee backup detail which establishes the costs for providing public facilities occasioned by Development Activity within the City.
- D. The Impact Fees established by this ordinance are based upon the costs which are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new Development Activity within the City.
- E. The Impact Fees established by this ordinance do not exceed the reasonable cost of providing public facilities occasioned by new Development Activity within the City. (Ord. 2007-04; Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008-05; Ord. 2008-06; Ord. 2011-03)

16-36-040 CALCULATION OF THE MAXIMUM ALLOWABLE IMPACT FEES.

A. Electrical Power Impact Fee:

Pursuant to the Act, the following are the maximum allowable Electrical Power Impact Fee that could be assessed pursuant to the 2007 Impact Fee Study performed by the City set forth in Section 16-36-030(C), above, is as follows:

The maximum impact fee for Enterprise City is based on \$2,529.00 per kVA of load added to the system. The estimated kW loads for residential customers shown below are adjusted for Power Factor, which is assumed to be 85% (uncompensated). The impact fees for residential customers have been calculated in the following table. These calculations are based upon historical usage as tabulated in the 2007 Impact Fee Study.

Residential:

<u>Rate Schedule</u>	<u>Est. kW Impact</u>	<u>Power Factor</u>	<u>Est. kVA Impact</u>	<u>Impact Fee</u>
Residential (100 Amp*)	1.84	85.00%	2.17	\$5,482.00
Residential (200 Amp*)	2.25	85.00%	2.65	\$6,694.00

Residential (400 Amp*)	8.79	85.00%	10.34	\$26,153.00
------------------------	------	--------	-------	-------------

***NOTE:** Calculations are based on typical usage, rather than on electrical panel size.

Commercial:

Commercial customers are assessed an impact fee amount that is based on their estimated load on the system. The fee for commercial customers is calculated by multiplying the panel rating (in amps), times the line-to-line voltage, times the square root of three, times the utilization factor (0.5), times the system diversity factor (0.4), times the commercial rate per kVA.

Rate Schedule	Demand	Adjusted Demand	Impact Fee
Commercial (100 Amp Panel/120/208Y Volts)	36	7.2	\$18,222.00
Commercial (200 Amp Panel/120/208Y Volts)	72	14.4	\$36,444.00
Commercial (400 Amp Panel/120/208Y Volts)	144	28.8	\$72,888.00

(Ord. 2008-06, 2008)

B. Wastewater Development Impact Fee:

Pursuant to the Act, the following are the maximum allowable Wastewater Development Impact Fee that could be assessed pursuant to the Wastewater Master Plan adopted pursuant to Section 16-36-030(C), above and the impact fee analysis performed by the City set forth in Section 16-36-030(C), above is as follows:

Maximum Wastewater Development Fee Allowed:

Per equivalent residential unit (ERU) at building permit issuance: \$3,605.00

C. Culinary Water Development Impact Fee:

Pursuant to the Act, the following are the maximum allowable Wastewater Development Impact Fee that could be assessed pursuant to the Water Master Plan adopted pursuant to Section 16-36-030(C), above and the impact fee analysis performed by the City set forth in Section 16-36-030(C), above is as follows:

Maximum Water Development Impact Fee Allowed:

Per equivalent residential unit (ERU) at building permit issuance: \$5,783

D. Storm Drainage Impact Fee:

Pursuant to the Act, the following are the maximum allowable Storm Drainage Impact Fee that could be assessed pursuant to the Storm Water Master Plan adopted pursuant to Section 16-36-030(C), above and the impact fee analysis performed by the City set forth in Section 16-36-030(C), above, is as follows:

Maximum Storm Drainage Impact Fee Allowed:

Per equivalent residential unit (ERU) at building permit issuance: \$1,600.00

E. Roads and Streets Impact Fee:

None

F. Parks and Recreational Impact Fee:

Pursuant to the Act, the following are the maximum allowable Parks and Recreation Impact Fee that could be assessed pursuant to the Parks and Recreation Master Plan adopted pursuant to Section 16-36-030(C), above and the impact fee analysis performed by the City set forth in Section 16-36-030(C), above, is as follows:

Maximum Parks and Recreation Impact Fee Allowed:

Per equivalent residential unit (ERU) at building permit issuance: \$3,400

G. Public Safety Impact Fee:

Pursuant to the Act, the following are the maximum allowable Public Safety Impact Fee that could be assessed pursuant to the Public Safety Master Plan adopted pursuant to Section 16-36-030(C), above and the impact fee analysis performed by the City set forth in Section 16-36-030(C), above, is as follows:

Maximum Public Safety Impact Fee Allowed:

Per equivalent residential unit (ERU) at building permit issuance: \$1,700.00

16-36-050 ACTUAL ASSESSMENT OF IMPACT FEES

A. Electrical Power Impact Fee:

The City hereby assesses the following amount for the Electrical Power Impact Fee:

The impact fee for Enterprise City is based on \$1,510.00 per kVA of load added to the system.

The estimated kW loads for residential customers shown below are adjusted for Power Factor, which is assumed to be 85% (uncompensated). The impact fees for residential customers have been calculated in the following table. These calculations are based upon historical usage as tabulated in the 2007 Impact Fee Study.

Residential:

<u>Rate Schedule</u>	<u>Est. kW Impact</u>	<u>Power Factor</u>	<u>Est. kVA Impact</u>	<u>Impact Fee</u>
Residential (100 Amp*)	1.84	85.00%	2.17	\$3,275.00
Residential (200 Amp*)	2.25	85.00%	2.65	\$4,000.00
Residential (400 Amp*)	8.79	85.00%	10.34	\$15,610.00

***NOTE:** Calculations are based on typical usage, rather than on electrical panel size.

Commercial:

For small commercial customers (200 Amps or less, single phase), the following flat rate shall apply:

<u>Rate Schedule</u>	<u>Impact Fee</u>
Commercial (100 Amp Panel/120/240 Volts Max)	\$3,275.00
Commercial (100 Amp Panel/120/240 Volts Max)	\$4,000.00

All other commercial customers are assessed an impact fee amount that is based on their estimated load on the system. The fee for commercial customers is calculated by multiplying the panel rating (in amps), times the line-to-line voltage, times the square root of

three, times the utilization factor (0.5), times the system diversity factor (0.4), times the commercial rate per kVA (see the examples below).

Rate Schedule	Demand	Adjusted Demand	Impact Fee
Commercial (100 Amp Panel/120/208Y Volts)	36	7.2	\$10,870.00
Commercial (100 Amp Panel/120/208Y Volts)	72	14.4	\$21,740.00
Commercial (100 Amp Panel/120/208Y Volts)	144	28.8	\$43,480.00

B. Wastewater Development Impact Fee:

The City hereby assesses the following amount for the Wastewater Development Impact Fee: \$2,500.00

C. Culinary Water Development Impact Fee:

The City hereby assesses the following amount for the Culinary Water Development Impact Fee: \$4,300.00

D. Storm Drainage Impact Fee:

The City hereby assesses the following amount for the Storm Drainage Impact Fee: \$0.00 (None)

E. Roads and Streets Impact Fee:

None

F. Parks and Recreational Impact Fee:

The City hereby assesses the following amount for the Parks and Recreation Impact Fee to all new residential Development Activity (commercial Development Activity will not incur an impact fee): \$1,500.00

G. Public Safety Impact Fee:

The City hereby assesses the following amount for the Public Safety Impact Fee: \$425.00

16-36-060 TIME OF COLLECTION.

Unless otherwise provided by the City Council, Impact Fees shall be payable immediately prior to issuance of a building permit by the City.

16-36-070 USE OF FEES.

The Impact Fees shall be used solely to:

- A. Pay for the described Public Facilities to be constructed by the City;
- B. For reimbursing the City for new development's Proportional Share of those Capital Facilities already constructed by the City; or
- C. To reimburse developers who have constructed Public Facilities where those Public Facilities were beyond that needed to mitigate the impacts of the developers project(s). (Ord. 2007-04; Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008-05; Ord. 2008-06)

16-36-080 ADJUSTMENTS.

The City may, upon a proper showing, adjust the standard Impact Fee at the time the fee is charged to:

- A. Respond to unusual circumstances in specific cases; and
- B. Insure that the Impact Fees are imposed fairly; and
- C. Adjust the amount of the Impact Fee based upon studies and data submitted by the developer which are approved by the City and the City's Engineer after review of the same; and
- D. Allow credits as approved by the City for dedication of land for, improvement to, or new construction of, public facilities providing services to the community at large, provided such facilities are identified in the City's capital facility's plan and are required by the City as a condition of approving the Development Activity. No credit shall be given for Project Improvements, only System Improvements. (Ord. 2007- 04;Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008-05; Ord. 2008-06)

16-36-090 ACCOUNTING, EXPENDITURE, AND REFUND

The City shall account for, expend, and refund Impact Fees in accordance with the provisions of the Act. (Ord. 2007-04; Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008-05; Ord. 2008-06)

16-36-100 IMPACT FEE CREDITS

The City, at its discretion, may give a credit against the amount of an Impact Fee due from a proposed Development Activity for the dedication of land and/or the provision of Capital Facilities that are System Improvements by an Applicant prior to the date an Impact Fee would normally be assessed for that category of Impact Fee so long as the following factors are met:

- A. The costs of such land and/or Capital Facilities have been included in the City's capital facilities plan for the applicable category of Capital Facilities, or
- B. The land dedicated or Capital Facilities provided is determined by the City to be a reasonable substitute for the Capital Facilities identified in the City's capital facility plan for the applicable category of Capital Facilities.
- C. Applications for credit shall be made to the City Council of the City and shall be submitted at or before the time of building permit application. The application for a credit shall be accompanied by relevant documentary evidence indicating the eligibility of the applicant for the credit. When an application for a credit accompanies an application for a building permit, City Staff shall calculate the applicable impact fee without any credit. Any credit determined appropriate by the City Council of the City shall be applied against the Impact Fee due and owing for that category of Impact Fee. Credits may not be transferable among different categories of Impact Fees.
- D. Credits for dedication of real property shall be determined by considering the fair market value of the property at the time of dedication. (Ord. 2007-04;Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008- 05; Ord. 2008-06)

16-36-110 IMPACT FEE CHALLENGES AND APPEALS

- |
- A. Any person or entity residing in or owning property within the City and any organization, association, or corporation representing the interests of persons or entities owning property within the City, may file a declaratory judgment action challenging the validity of the Impact Fee being assessed pursuant to this ordinance.
 - B. Any person or entity required to pay an Impact Fee imposed by the City who believes the fee does not meet the requirements of law may file a written request for information with the City as provided by law.
 - C. Within two weeks of the receipt of the request for information, the City shall provide the person or entity with a copy of the capital facilities plan and impact fee analysis required by the Act and with any other relevant information relating to the Impact Fee.
 - D. Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall:
 - 1. File a written appeal with the City Council of the City by delivering a copy of such appeal to the City's City Administrator setting forth in detail all grounds for and all facts relied upon by the appealing party with respect to the fees appealed. Upon receipt of appeal the City Council of the City shall thereafter schedule a public hearing on the appeal at which time all interested persons will be given an opportunity to be heard. The City Council shall schedule the appeal hearing and thereafter render its decision on the appeal no later than thirty (30) days after the challenge to the impact fee is filed. Any person or entity who has failed to comply with the administrative appeal remedies established by this section may not file or join an action challenging the validity of any impact fee.
 - 2. Within ninety (90) days of decision upholding an impact fee by the City or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier, any party to the appeal that is adversely affected by the City Council's decision may petition the Fifth Judicial District Court in and for Washington County for review of the decision. (Ord. 2007- 04;Ord. 2007-07; Ord. 2007-09; Ord. 2007-16; Ord. 2008-05; Ord. 2008-06)