

ORDINANCE NO. 11-16-2021A

AN ORDINANCE ADOPTING AN IMPACT FEE FACILITIES PLAN AND AN IMPACT FEE ENACTMENT AND CREATING A NEW SERVICE AREA FOR THE SANITARY SEWER SYSTEM AND NOTICE OF PUBLIC HEARING

WHEREAS, West Point City (the "City") is a political subdivision of the State of Utah, authorized and organized under applicable provisions of Utah law; and

WHEREAS, the City has legal authority, pursuant to Title 11, Chapter 36a of the Utah Code Annotated, as amended ("Impact Fees Act" or "Act"), to impose development impact fees as a condition of development approval, which impact fees are used to defray capital infrastructure costs attributable to new development activity; and

WHEREAS, the City has previously enacted and imposed impact fees for facilities plans, known and referred to as the "Sanitary Sewer Impact Fee", as more particularly set forth in the West Point City Fee Schedule; and

WHEREAS, the City desires to amend such fees and to create an additional service area to be referred to hereafter as "Sanitary Sewer Impact Fee" in accordance with applicable provisions of the Impact Fees Act in order to appropriately assign capital infrastructure costs to development in an equitable and proportionate manner as more particularly provided herein; and

WHEREAS, the City properly noticed its intent to prepare the Sanitary Sewer Impact Fee Facilities Plan and the Impact Fee Analysis as required by law and the City has through its consultants, completed the Sanitary Sewer Impact Fee Facilities Plan and Impact Fee Analysis in accordance with applicable provisions of the Impact Fees Act, which Sanitary Sewer Impact Fee Facilities Plan and Impact Fee Analysis are more particularly described and adopted herein; and

WHEREAS, the City has provided the required notice and held a public hearing before the City Council regarding the proposed Sanitary Sewer Impact Fees, Sanitary Sewer Impact Fee Facilities Plan and Sanitary Sewer Impact Fee Analysis in accordance with applicable provisions of the Impact Fees Act; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST POINT CITY, STATE OF UTAH, AS FOLLOWS:

**SECTION I
PURPOSE**

This Sanitary Sewer Impact Fees Ordinance establishes the City's Sanitary Sewer Impact Fees policies and procedures and is promulgated pursuant to Title 11, Chapter 36a, Part 4, Enactment of Impact Fees, and other requirements of the Impact Fees Act. This Ordinance adopts Sanitary Sewer Impact Fees for Sanitary Sewer facilities within a new Service Area as defined herein, provides a schedule of Sanitary Sewer Impact Fees for development activity, and

sets forth direction for challenging, modifying and appealing Sanitary Sewer Impact Fees. This Ordinance does not replace, supersede, or modify the existing Sanitary Sewer Impact Fee ordinance for the existing service area of the City, nor any ordinance regarding impact fees unrelated to Sanitary Sewer facilities and improvements.

SECTION II DEFINITIONS

Words and phrases that are defined in the Impact Fees Act shall have the same definition in this Sanitary Sewer Impact Fees Ordinance. The following words and phrases are defined as follows:

1. "*City*" means a political subdivision of the State of Utah and is referred to herein as the City of West Point, Utah.

2. "*Development Activity*" means, except as otherwise provided in the Impact Fees Act, any construction or expansion of a building, structure or use, any change in use of a building or structure, or any changes in the use of land within the Service Area that creates additional demand and need for public facilities related to Sanitary Sewer.

3. "*Development Approval*" means any written authorization from the City that authorizes the commencement of development activity.

4. "*Impact Fee*" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure. "Impact fee" does not include a tax, special assessment, building permit fee, hookup fee, fee for project improvements, or other reasonable permit or application fee.

5. "*Impact Fee Analysis*" means the written analysis of each impact fee required by Section 11-36a-303 of the Impact Fees Act.

6. "*Impact Fee Facilities Plan*" means the plan required by Section 11-36a-301 of the Impact Fees Act.

7. "*Project Improvements*" means site improvements and facilities that are: planned and designed to provide service for development resulting from a Development Activity; necessary for the use and convenience of the occupants or users of development resulting from a Development Activity; and not identified or reimbursed as a system improvement. "Project Improvements" does not mean system improvements as more particularly defined herein.

8. "*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.

9. "*Public Facilities*" means impact fee facilities as defined in the Impact Fees Act that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity. For purposes of this Ordinance, and as defined in the

Impact Fees Act, impact fee facilities include "Sanitary Sewer facilities" of the City for the Service Area.

10. "*Service Area*" means a geographic area designated by the City on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area. The Service Area for purposes of this Ordinance is more particularly described in Section V.

11. "*System Improvements*" means existing public facilities that are: identified in the impact fee analysis under Section 11-36a-304 of the Impact Fees Act; and designed to provide services to service areas within the community at large and future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide service to service areas within the community at large. "System Improvements" do not include project improvements as defined herein.

SECTION III STATUTORY AUTHORITY AND RESTRICTIONS

1. *Impact Fees Act Authority.* The City is authorized to impose impact fees subject to and in accordance with applicable provisions of the Impact Fees Act. An impact fee is defined as a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure. Impact fees may only be established for public facilities as defined in Section 11-36a-102 that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision. Public facilities for which impact fees may be imposed include public facilities for Sanitary Sewer facilities.

2. *Impact Fees Act Restrictions.* Pursuant to Section 11-36a-202 of the Impact Fees Act, the City may not impose an impact fee to: (1) cure deficiencies in public facilities serving existing development; (2) raise the established level of service of a public facility serving existing development; (3) recoup more than the local political subdivision's costs actually incurred for excess capacity in an existing system improvement; or (4) include 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.

SECTION IV SERVICE AREA

The Impact Fees Act requires the City to establish one or more service areas within which the City will calculate and impose a particular impact fee. The City currently has one service area that includes all of the area within the West Point City Corporate Boundaries as they currently exist. Said service area was created and defined by Ordinance 08-21-2018C and remains in place. This new ordinance creates a new service area informally known as the "Proposed Annexation Area" and is defined and depicted on a map in the Impact Fee Facilities Plan attached hereto.

SECTION V IMPACT FEE FACILITIES PLAN

1. *Impact Fee Facilities Plan Required.* Pursuant to Section 11-36a-301 of the Impact Fees Act, before imposing or amending an impact fee, the City is required to prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity. The impact fee facilities plan shall identify the demands placed upon existing public facilities by new development activity and the proposed means by which the City will meet those demands.

2. *Sanitary Sewer Impact Fee Facilities Plan.* The City has, through its consultants, researched and analyzed the factors set forth in Section 11-36a-302 of the Impact Fees Act and has caused to be prepared a Sanitary Sewer Impact Fee Facilities Plan ("IFFP"), as more particularly set forth in Exhibit A, attached hereto and incorporated herein by this reference. The Sanitary Sewer IFFP has been prepared based on reasonable growth assumptions for the City and general demand characteristics of current and future users of Sanitary Sewer facilities. The Sanitary Sewer IFFP identifies the impact on system improvements created by development activity and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity. As shown in the Sanitary Sewer IFFP, the City has considered all revenue sources to finance the impacts on system improvements, including grants, bonds, interfund loans, impact fees, and anticipated or accepted dedications of system improvements. The Sanitary Sewer IFFP establishes that impact fees are necessary to maintain proposed level of service that complies with applicable provisions of Section 11-36a 302 of the Impact Fees Act.

3. *Plan Certification.* The Sanitary Sewer IFFP includes a written certification in accordance with Section 11-36a-306 of the Impact Fees Act from the person or entity that prepared the plan certifying that the Sanitary Sewer IFFP complies in each and every relevant respect with the Impact Fees Act.

4. *Compliance with Noticing Requirements.* All noticing requirements set forth in the Impact Fees Act, including, but not limited to, provisions of Title 11, Chapter 36a, Part 5, Notice, including notice of intent to prepare an impact fee facilities plan, notice to adopt or amend an impact fee facilities plan, notice of preparation of impact fee analysis, and notice of intent to adopt impact fee enactment, have been provided. Copies of the Sanitary Sewer IFFP and Sanitary Sewer IFA, together with a summary designed to be understood by a lay person, and this Impact Fee Ordinance, have been made available to the public by placing a copy of the Sanitary Sewer IFFP and Sanitary Sewer IFA, together with the summary, and this Ordinance, in the City Recorder's Office at West Point City Hall at least ten (10) days before the public hearing.

5. *Adoption of Sanitary Sewer Impact Fee Facilities Plan.* The Sanitary Sewer IFFP as set forth in Exhibit A is hereby adopted in its entirety by the City in accordance with applicable provisions of the Impact Fees Act.

SECTION VI IMPACT FEE ANALYSIS

1. *Impact Fee Analysis Required.* Pursuant to Section 11-36a-303 of the Impact Fees Act, each local political subdivision intending to impose an impact fee shall prepare a written analysis of each impact fee to be imposed and a summary of the impact fee analysis designed to be understood by a lay person. The impact fee analysis shall identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity; identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility; demonstrate how the anticipated impacts are reasonably related to the anticipated development activity; estimate the proportionate share of the costs for existing capacity that will be recouped and the costs of impacts on system improvements that are reasonably related to the new development activity and identify how the impact fee is calculated.

2. *Sanitary Sewer Impact Fee Analysis.* The City has, through its consultants, researched and analyzed the factors set forth in Section 11-36a-304 of the Impact Fees Act, including the proportionate share analysis required therein, and has caused to be prepared a Sanitary Sewer Impact Fee Analysis ("IFA"), as more particularly set forth in Exhibit A, attached hereto and incorporated herein by this reference. The Sanitary Sewer IFA identifies the impacts upon public facilities required by the development activity and demonstrates how those impacts on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity, and identifies how the Sanitary Sewer Impact Fees are calculated.

3. *Analysis Certification.* The Sanitary Sewer IFA includes a written certification in accordance with Section 11-36a-306 of the Impact Fees Act from the person or entity that prepared the analysis certifying that the Sanitary Sewer IFA complies in each and every relevant respect with the Impact Fees Act.

4. *Compliance with Noticing Requirements.* All noticing requirements set forth in the Impact Fees Act, including, but not limited to, provisions of Title 11, Chapter 36a, Part 5, Notice, including notice of intent to prepare an impact fee facilities plan, notice to adopt or amend an impact fee facilities plan, notice of preparation of impact fee analysis, and notice of intent to adopt impact fee enactment, have been provided. Copies of the Sanitary Sewer IFFP and Sanitary Sewer IFA, together with a summary designed to be understood by a lay person, and this Impact Fee Ordinance, have been made available to the public by placing a copy of the Sanitary Sewer IFFP and Sanitary Sewer IFA, together with the summary, and this Ordinance, in City Recorder's Office at West Point City Hall at least ten (10) days before the public hearing.

5. *Adoption of Sanitary Sewer Impact Fee Analysis.* The Sanitary Sewer IFA as set forth in Exhibit A is hereby adopted in its entirety by the City in accordance with applicable provisions of the Impact Fees Act.

SECTION VII

CALCULATION OF IMPACT FEE

1. *Impact Fee Calculations.* Pursuant to Section 11-36a-305, in calculating an impact fee, the City may include: the construction contract price; the cost of acquiring land, improvements, materials, and fixtures; the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and debt service charges if the City might use impact fees as a revenue stream to pay principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements. In calculating the proposed Sanitary Sewer Impact Fees, the City has based such amounts calculated on realistic estimates and the assumptions underlying such estimates are more particular disclosed in the Sanitary Sewer IFA set forth in Exhibit A.

2. *Previously Incurred Costs.* To the extent that new growth and development will be served by previously constructed improvements, the City's Sanitary Sewer Impact Fees may include public facility costs and outstanding bond costs related to the Sanitary Sewer improvements previously incurred by the City. However, as provided in the Sanitary Sewer IFA, a buy-in component is not contemplated in the analysis and therefore the interest costs associated with any outstanding Sanitary Sewer bond obligations have not been included in the calculation of the Sanitary Sewer Impact Fee.

**SECTION VIII
IMPACT FEE SCHEDULE AND FORMULA**

1. *Impact Fee Schedule or Formula Required.* Pursuant to Section 11-36a-402 of the Impact Fees Act, the City is required to provide a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement or the formula that the City will use to calculate each impact fee.

2. *Maximum Sanitary Sewer Impact Fee Schedule.* Based on the Sanitary Sewer IFA, the maximum Sanitary Sewer Impact Fees which the City may impose on development activity within the defined Service Area for Sanitary Sewer facilities is set forth in the following schedule:

Maximum Sanitary Sewer Impact Fee Schedule

Sanitary Sewer Impact Fee.....\$5,200 per ERU

3. *Rates Established by Resolution.* The City Council, by this Ordinance, approves the maximum Sanitary Sewer Impact Fees in accordance with the Sanitary Sewer IFA set forth in Exhibit A. The City reserves the right to establish the Sanitary Sewer Impact Fees as established in this Ordinance by Rate Resolution or Resolution amending the Consolidated Fee Schedule. In no event will the Sanitary Sewer Impact Fees established by Resolution exceed the maximum supportable Sanitary Sewer Impact Fee Schedule as set forth herein.

SECTION IX ADJUSTMENTS AND CREDITS

1. *Adjustments.* In accordance with Section 11-36a-402 of the Impact Fees Act, the City may adjust the Sanitary Sewer Impact Fees at the time the fee is charged to respond to unusual circumstances in specific cases, to address development activity by the State or school district, or to ensure that impact fees are imposed fairly. The Sanitary Sewer Impact Fees may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The Sanitary Sewer Impact Fees assessed to a particular development may also be adjusted should the developer supply sufficient written information, studies and/or data to the City showing a discrepancy between the fee being assessed and the actual impact on the system.

2. *Developer Credits.* In accordance with Section 11-36a-402 of the Impact Fees Act, a developer may be allowed a credit against Sanitary Sewer Impact Fees or proportionate reimbursement of Sanitary Sewer 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 the City and the developer agree will reduce the need for a system improvement; provided that the system improvement is: (i) identified in the City's Sanitary Sewer IFFP; and (ii) is required by the City as a condition of approving the development activity. To the extent required in Section 11-36a-402, the City shall provide a credit against Sanitary Sewer Impact Fees 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, as defined herein and included in the Sanitary Sewer IFFP; or are dedicated to the public and offset the need for an identified system improvement.

3. *Waiver for "Public Purpose".* The City Council may, on a project by project basis, authorize exceptions or adjustments to the Sanitary Sewer Impact Fees for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include affordable housing and other development activities with broad public purposes. The City Council may elect to waive or adjust Sanitary Sewer Impact Fees for such projects. Applications for exceptions are to be filed with the City at the time the applicant first requests the extension of service to the applicant's development or property.

SECTION X NOTICE AND HEARING

1. *Notice.* All noticing requirements set forth in the Impact Fees Act, including, but not limited to, provisions of Title 11, Chapter 36a, Part 5, Notice, including notice of intent to prepare an impact fee facilities plan, notice to adopt or amend an impact fee facilities plan, notice of preparation of impact fee analysis, and notice of intent to adopt impact fee enactment, have been provided. Copies of the Sanitary Sewer IFFP and Sanitary Sewer IFA, together with a summary designed to be understood by a lay person, and this Impact Fee Ordinance, have been made available to the public by placing a copy of the Sanitary Sewer IFFP and Sanitary Sewer IFA, together with the summary, and this Ordinance, in the Recorder's Office at West Point City

Hall at least ten (10) days before the public hearing. Notice has also been provided in accordance with applicable provisions of Utah Code Ann. § 10-9a-205.

2. *Hearing.* The City Council held a public hearing regarding the Sanitary Sewer IFFP, the Sanitary Sewer IFA, and this Sanitary Sewer Impact Fee Ordinance, on September 7, 2021, and a copy of the Ordinance was available in its substantially final form at the City Recorder's Office in the West Point City Hall at least ten (10) days before the date of the hearing, all in conformity with the *requirements* of Utah Code Ann. § 70-9a-205 and applicable noticing provisions of the Impact Fees Act.

SECTION XI IMPACT FEE ACCOUNT AND EXPENDITURES

1. *Impact Fees Accounting.* Pursuant to Section 11-36a-601 of the Impact Fees Act, the City will establish a separate interest bearing ledger account for each type of public facility for which an impact fee is collected, deposit a receipt for an impact fee in the appropriate ledger account established herein, and retain the interest earned on each fund or ledger account in the fund or ledger account.

2. *Reporting.* At the end of each fiscal year, the City shall prepare a report on each fund or ledger account showing the source and expenditures as required by law. Annually, the City shall produce and transmit to the State Auditor a certified report in accordance with Section 11-36a-601 in a format developed by the State Auditor.

3. *Impact Fee Expenditures.* Pursuant to Section 11-36a-602 of the Impact Fees Act, the City may expend Sanitary Sewer Impact Fees only for a system improvement: (i) identified in the Sanitary Sewer IFFP; and (ii) for the specific public facility type for which the fee was collected. Impact fees will be expended on a First-In First-Out basis.

4. *Time of Expenditure.* Except as otherwise provided by law, the City shall expend or encumber Sanitary Sewer Impact Fees for a permissible use within six (6) years of their receipt. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

5. *Extension of Time.* Pursuant to Section 11-36a-602 of the Impact Fees Act, the City may hold the impact fees for longer than six (6) years if it identifies in writing: (i) an extraordinary and compelling reason why the fees should be held longer than six (6) years; and (ii) an absolute date by which the fees will be expended.

6. *Refunds.* Pursuant to Section 11-36a-603 of the Impact Fees Act, the City shall refund any Sanitary Sewer Impact Fees paid by a developer, plus interest earned, when: (i) the developer does not proceed with the development activity and has a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted. An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including, but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based in whole or in part upon the

developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

7. *Other Impact Fees.* To the extent allowed by law, the City Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the City Council, include but not be limited to reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the City's system.

8. *Additional Fees and Costs.* The Sanitary Sewer Impact Fees authorized herein are separate from and in addition to user fees and other charges lawfully imposed by the City and other fees and costs that may not be included as itemized component parts of the Sanitary Sewer Impact Fee Schedule. In charging any such fees as a condition of development approval, the City recognizes that the fees must be a reasonable charge for the service provided.

9. *Fees Effective at Time of Payment.* Unless otherwise provided in the City's Consolidated Fee Schedule, the City will collect the Sanitary Sewer Impact Fees prior to final plat recording or prior to building permit issuance, as applicable. The fees will be calculated by the City. Unless the City is otherwise bound by a contractual requirement, the Sanitary Sewer Impact Fees shall be determined from the fee schedule in effect at the time of payment.

10. *Imposition of Additional Fee or Refund after Development.* Should any developer undertake development activities such that the ultimate acreage or other impact of the development activity is not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the Sanitary Sewer Impact Fee is not initially charged against all acreage within the development, the City shall be entitled to charge an additional Sanitary Sewer Impact Fee to the developer or other appropriate person covering the acreage for which an impact fee was not previously paid.

SECTION XII CHALLENGES TO IMPACT FEES

1. *Request for Information.* Pursuant to Section 11-36a-701, a person or entity required to pay a Sanitary Sewer Impact Fee who believes the impact fee does not meet the requirements of law may file a written request for information with the City Manager. As required by law, the City Manager shall, within two (2) weeks after the receipt of the request for information provide the person or entity with the Sanitary Sewer IFFP, the Sanitary Sewer IFA, and any other relevant information relating to the Sanitary Sewer Impact Fee.

2. *Advisory Opinion.* A potentially aggrieved person may request an advisory opinion from a neutral third party regarding compliance of the Sanitary Sewer Impact Fees with the Impact Fees Act by filing such request with the Office of the Property Rights Ombudsman in accordance with the procedures and provisions of Title 13, Chapter 43, known as the Property Rights Ombudsman Act. The aggrieved party requesting an advisory opinion is not required to exhaust the administrative appeals procedures set forth in Subsection 4 before requesting an advisory opinion.

3. *Appeal.* A person or entity that has paid Sanitary Sewer Impact Fees under the provisions of this Ordinance may challenge such impact fees pursuant to the provisions set forth in Title 11, Chapter 36a, and Part 7 of the Impact Fees Act regarding Challenges.

- a. *Grounds for Challenge.* Pursuant to Section 11-36a-701, a person or entity that has paid Sanitary Sewer Impact Fees under the provisions of this Ordinance may challenge: (1) the impact fees; (2) whether the City complied with the notice requirements of the Impact Fees Act with respect to the imposition of the impact fees; and/or (3) whether the City complied with other procedural requirements of the Impact Fees Act for imposing the impact fee.
- b. *Sole Remedy.* The sole remedy for challenging the notice requirements is the equitable remedy of requiring the City to correct the defective notice and repeat the process. The sole remedy for challenging the impact fee is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated. Reasonable attorney's fees may be awarded to the substantially prevailing party to the extent provided in the Impact Fees Act.
- c. *Initiation.* A challenge to an impact fee is initiated by filing:
 - i. An appeal to the City Council pursuant to the administrative appeal procedures set forth herein;
 - ii. A request for arbitration as provided in Section 11-36a-705 of the Impact Fees Act; or
 - iii. An action in district court.
- d. *Time Restrictions.* The time for filing a challenge to the impact fees shall be filed in accordance with the time limitations set forth in Section 11-36a-702, depending upon the type of challenge. The deadline to file an action in district court is tolled from the date that a challenge is filed using the administrative procedures set forth in Subsection 4 until thirty (30) days on which a final decision is rendered in the administrative appeals procedure.

4. *Administrative Appeal Procedure.* The City hereby adopts an administrative appeal procedure to consider and decide challenges to the Sanitary Sewer Impact Fees. Any person or entity that has paid a Sanitary Sewer Impact Fee pursuant to this Ordinance may challenge or appeal the impact fee by filing written notice of administrative appeal with the City Manager within thirty (30) days after the day on which the person or entity paid the impact fee. The notice of appeal shall set forth the grounds for the appeal and shall include any applicable filing fees as set forth in the City's Consolidated Fee Schedule. Upon receiving the written notice of appeal, the City Council shall set a hearing date to consider the merits of the challenge or appeal. The person or entity challenging or appealing the fee may appear at the hearing and present any written or oral evidence deemed relevant to the challenge or appeal. Representatives of the City may also appear and present evidence to support the imposition of the fee. The City Council

shall hold a hearing and make a decision within thirty (30) days after the date the challenge or appeal is filed.

5. *Mediation.* In addition to the methods of challenging an impact fee as provided herein, a specified public agency may require the City to participate in mediation of any applicable impact fee in accordance with the provisions of Section 17-36a-704 of the Impact Fees Act. A written request for mediation must be filed in accordance with Section 11-36a-704 no later than thirty (30) days after the day on which the impact fee is paid.

6. *Declaratory Judgment Action.* Pursuant to Section 11-36a-701, a person or entity residing in or owning property within the Service Area, or an organization, association, or a corporation representing the interests of persons or entities owning property within the Service Area are deemed to have standing to file a declaratory judgment action challenging the validity of an impact fee.

SECTION XIII MISCELLANEOUS

1. *Severability.* If any section, subsection, paragraph, clause or phrase of this Sanitary Sewer Impact Fee Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and for this purpose, the provisions of this Sanitary Sewer Impact Fee Ordinance are declared to be severable.

2. *Interpretation.* This Sanitary Sewer Impact Fee Ordinance has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this Ordinance shall not be affected by such division or by any heading contained herein.

3. *Other Impact Fees Not Repealed.* Except as otherwise specifically provided herein, this Sanitary Sewer Impact Fee Ordinance shall not repeal, modify or affect any impact fee of the City in existence as of the effective date of this Ordinance.

SECTION XIV EFFECTIVE DATE

In accordance with the provisions of Utah Code Ann. Section 11-36a-401, this ordinance and the impact fees adopted herein or pursuant hereto shall take effect immediately upon approval of this ordinance.

[Signature Page to Follow]

PASSED AND APPROVED this 16th Day of November, 2021.

Mayor Erik Craythorne

[SEAL]

VOTING:

Jerry Chatterton	Yea__ Nay__
Andy Dawson	Yea__ Nay__
Kent Henderson	Yea__ Nay__
Gary L. Petersen	Yea__ Nay__
Annett Judd	Yea__ Nay__

ATTEST:

Casey Arnold
City Recorder