

TITLE 11

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Chapter 11.04

IMPACT FEES

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11.04.010 Purpose

This Impact Fee Policy is promulgated pursuant to the requirements of the Impact Fees Act, Utah Code Annotated §11-36-101-401 (the "Act"). This ordinance establishes impact fees within the City-wide Service Area, describes certain capital improvements to be funded through impact fees and provides a schedule of impact fees for differing types of land-use development, and sets forth direction for challenging and appealing impact fees.

11.04.020 Definitions

Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Policy. The following words and phrases shall have the following meanings:

1. "Capital Facilities Plan" means the plan required by Section 11-36-201 of the Act. In Section 11-36-201(2)(e) there is an exception to the Capital Facilities Plan for Cities of 5,000 or less in population, based on the latest counts. The City of Lindon does not meet this exception, therefore, they have completed a comprehensive Capital Facilities Plan for culinary water, wastewater and parks and recreation facilities in accordance with the Act and adopted on August 20, 2002 as included in Exhibit B.
2. "Development activity" means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for

public facilities. Development activity will include residential and commercial users who will connect to the City's water and wastewater systems and will utilize the City's parks and recreation systems.

3. "Development approval" means any written authorization from the City that authorizes the commencement of development activity.
4. "City" means a local political subdivision of the State of Utah and is referred to herein as Lindon City (the "City").
5. "Impact fee" means a payment of money imposed upon development activity as a condition of development approval. "Impact fee" includes development impact fees, but does not include a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees.
6. "Project improvements" means site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupant or users of development resulting from a development activity. "Project improvements" do not include "system improvements" as defined below.
7. "Proportionate share" of the cost of public facilities improvements means an amount that is roughly proportionate and reasonably related to the service demand and needs of a development activity.
8. "Public facilities" means Culinary Water, Wastewater and Parks & Recreation improvements of the City for the City-wide Service Area.
9. "Service area" refers to the geographic area designated by the City based on sound planning or engineering principles in which a defined set of the City's public facilities provides service. The service area for purposes of the City-wide Impact Fee Analysis includes all areas within the jurisdictional boundaries of the City (Exhibit A: Map of the Lindon City-wide Service

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Area).

10. "System improvements" refer to both existing public facilities designed to provide services within the Lindon City-wide Service Area and to future public facilities identified in reasonable plan for capital improvements adopted by the City that are intended to provide service to the Lindon City-wide Service Area. "System improvements" do not include "Project improvements" as defined above.

11.04.030 Impact Fee Analysis

1. Executive Summary. A summary of the findings of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in Exhibit C and demonstrates the need for impact fees to be charged to fairly show costs related to capital infrastructure. A copy of the Executive Summary is included in the Impact Fee Analysis and has been available for public inspection prior to the adoption of this ordinance.
2. Written Analysis. The City has prepared a Written Analysis for the Culinary Water, Wastewater and Parks & Recreation impact fees that identifies the impact upon the individual systems required by the development activity and demonstrates how those impact on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impact on system improvements that are reasonably related to the development activity and identifies how the impact fees are calculated. A copy of the Written Analysis is included in the Impact Fee Study and has been available for public inspection prior to the adoption of this ordinance.
3. Proportionate Share Analysis. The City has prepared a Proportionate Share Analysis analyzing whether or not the proportionate share of the costs of public facilities is reasonably related to the new development activity. The Proportionate Share Analysis identifies the costs of existing public

facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment toward the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in the Impact Fee Study and has been available for public inspection prior to the adoption of this ordinance.

11.04.040 Impact Fee Calculations

1. Ordinance Enacting Impact Fees. The City Council will, by this ordinance, approve an impact fee in accordance with the impact fee analyses set forth in Exhibit C: Lindon City-wide Impact Fee Analysis.
 - a. Elements. In calculating the impact fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the City might use impact fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.
 - b. Notice and Hearing. Before approving the ordinance, the City will hold a public hearing on August 20, 2002, and make a copy of the ordinance available to the public at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9-103(2). After the public hearing, the City Council may adopt or reject the impact fee ordinance as proposed or amend the impact fee ordinance and adopt or reject it as amended.
 - c. Adjustments. The standard impact fee may be adjusted at the time the fee is

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- charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to insure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes.
- d. Previously Incurred Costs. To the extent that the new growth and development will be served by previously constructed improvements, the City's impact fee may include public facility costs and bond costs related to the culinary water, wastewater and parks & recreation improvements and previously incurred by the City. These costs may include all projects included in the reasonable capital projects plan which are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations.
2. Developer Credits. Development may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer provided that it is (i) identified in the City's Capital Facilities Plans and (ii) required by the City as a condition of approving the development activity. Otherwise, no credit may be allowed unless expressly provided in Section 11.04.060 below.
 3. Impact Fees Accounting. The City will establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee promulgated in accordance with the requirements of the Impact Fees Act deposited in the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account. Impact fees collected prior to the effective date of this Ordinance need not meet the requirements of this section.
- a. Reporting. At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.
 - b. Impact Fee Expenditures. The City may expend impact fees covered by this Impact Fees Policy only for system improvements that are (i) public facilities identified in the City's reasonable capital projects plans and (ii) of the specific public facility types for which the fee was collected.
 - c. Time of Expenditure. Impact fees collected pursuant to the requirements of this Impact Fees Policy are to be expended, dedicated or encumbered for permissible use within six years of the receipt of those funds by the City, unless the City Council otherwise directs. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.
 - d. Extension of Time. The City may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.
4. Refunds. The City shall refund any impact fees paid by a developer, plus interest actually earned when (i) the developer does not proceed with the development activity and files 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

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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.

5. 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, in 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.
6. Additional Fees and Costs. The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the City, an other fees and costs that may not be included as itemized component parts of the 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.
7. Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Section 11.04.060 below.
8. Imposition of Additional Fee or Refund After Development. Should any developer undertake development activities such that the ultimate density 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 impact fee is not initially charged against all units or the total density within the development, the City shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid.

11.04.050 Impact Fee Schedules

CULINARY WATER SYSTEM IMPACT FEE		
Water Meter Size	Equivalent ERUs	Impact Fee
3/4"	1.0	\$914
1"	1.4	\$1,279
1 1/2"	1.8	\$1,644
2"	2.9	\$2,649
3"	11	\$10,049
4"	14	\$12,790
6"	21	\$19,185

WASTEWATER SYSTEM IMPACT FEE PER ERU¹	
Development Type	Fee
1 ERU ²	\$2,561

(1) Per equivalent residential unit, with the exception of accessory apartments.

(2) An equivalent Residential Unit is a base of 30 fixture units or a single family unit.

PARKS & RECREATION IMPROVEMENTS IMPACT FEE	
Development Type	Fee
Single Family Dwelling Units (Detached)	\$1,498.85 per Dwelling Unit
Other Residential Units	\$1,129.22 per Dwelling Unit

11.04.060 Fee Exceptions and Adjustments

1. Waiver for "Public Purpose". The City

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Council may, on a project by project basis, authorize exceptions or adjustments to the Impact Fee rate structure for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. This option is available to: (i) respond to unusual circumstances in specific cases, (ii) ensure that the impact fees are imposed fairly and (iii) exempt low income housing and other development activities from impact fees and establish one of more sources of funds other than impact fees to pay for the development activity, and (iv) induce certain development that will generate sales, tax, property tax or franchise tax in an amount sufficient to defray a fair cost of the infrastructure being provided.

- a. Procedures. 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.

11.04.070 Appeal Procedure

1. Application. The appeal procedure applies both to challenges to the legality of impact fees, to similar and related fees of the City and to the interpretation and/or application of those fees. By way of illustration, in addition to the legality of the impact fee schedule, determinations of the density of a development activity or calculation of the amount of the impact fee due will also be subject to this appeal procedure.
2. Declaratory Judgement Action. 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 an impact fee only after having first exhausted their administrative remedies of this Section.
3. Request for Information Concerning the Fee. Any person or entity required to pay an

impact fee may file a written request for information concerning the fee with the City. The City will provide the person with the impact fee analysis and other information relating to the impact fee within fourteen (14) days after receipt of the request for information.

4. Appeal to the City Before Payment of the Impact Fee. Affected or potentially affected person or entity wishing to challenge an impact fee prior to payment may file a written request for information concerning the fee and proceed under the appeal procedure.
5. Appeal to the City After Payment of the Impact Fee; Statue of Limitations for Failure to File. Any person or entity that has paid an impact fee and wishes to challenge the fee shall file a written request for information concerning the fee within thirty (30) days after having paid the fee and proceed under the City's appeal procedure. If thirty (30) days has passed after payment of the impact fee and a written request for information or challenge has not been filed with the City, the person or entity is barred from filing an administrative appeal with the City or seeking judicial relief.
6. Appeal to the City. Any developer, landowner or affected party desiring to challenge the legality of any impact fee or related fee or exaction may appeal directly to the City Council by filing a written challenge with the City, provided that the affected party does so in writing within thirty (30) days after the action or decision to which the appeal relates. If no written challenge is filed with the City within the said thirty (30) day's period, the affected party may neither process an administrative appeal with the City nor seek judicial relief.
 - a. Hearing. An informal hearing will be held not sooner than five (5) nor more than twenty-five (25) days after a written appeal to the City Council is filed.
 - b. Decision. After the conclusion of the informal hearing, the City Council, by majority vote, shall affirm, reverse, or

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take action with respect to the challenge or appeal as the City Council deems to be appropriate in light of the City's policies and procedures and any applicable law, rule or regulation. The decision of the City Council may include the establishment of calculation of the impact fee applicable to the development activity at issue; any impact fee set by the City Council may include the establishment or calculation of the impact fee applicable to the development activity at issue. Fees set by the City Council may be the same as or higher or lower than that being appealed provided that it shall not be higher than the maximum allowed under the City's lawful impact fee rate or formula which is either in existence on the effective date of the Act or as promulgated under the Impact Fees Policy, as appropriate. The decision of the City Council will be issued within thirty (30) days after the date the written challenge was filed with the City as mandated by Utah Code Annotated §11-36-401(4)(b). In light of the statutorily mandated time restriction, the City shall not be required to provide more than three (3) working days prior notice of the time, date and location of the informal hearing and the inconvenience of the hearing to the challenging party shall not serve as a basis of appeal of the City's final determination.

7. Denial Due to Passage of Time. Should the city, for any reason, fail to issue a final decision on a written challenge to an impact fee, its calculation or application, within thirty (30) days after the filing of that challenge with the City, the Challenge shall be deemed to have been denied and any affected party to the proceedings may seek appropriate judicial relief from such denial.
8. Judicial Review. Any party to the administrative action who is adversely affected by the City's final decision must petition the City Court for a review of the

decision within ninety (90) days of a final City decision upholding an impact fee, its calculation or application, or within one hundred twenty (120) days after the written challenge to the impact fee, its calculation or application, was filed with the City, whichever is earlier.

- a. Record of Proceedings. After having been served with a copy of the pleadings initiating the City Court review, the City shall submit to the Court the record of the proceedings before the City, including minutes, and if available, a true and correct transcript of any proceedings. If the City is able to provide a record of the proceedings, the City Court's review is limited, by Utah Code Annotated §11-36-401(5)(c) to the record of the Court may not accept or consider evidence outside of the record of proceedings before the City unless the evidence was offered to the City and improperly excluded in the proceeding before the City. If the record is inadequate, however, the Court may call witnesses and take evidence. The Court is to affirm the City's decision if the decision is supported by substantial evidence in the record.

11.04.080 Miscellaneous

1. Severability. If any section, subsection, paragraph, clause or phrase of this Impact Fee Policy shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Impact Fee Policy, which shall remain in full force and effect, and for this purpose, the provisions of this Impact Fee Policy are declared to be severable.
2. Interpretation. This Impact fee Policy has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this Impact Fee Policy shall not be affected by such division or by any heading contained herein.
3. Effective Date. Except as otherwise specifically provided herein, this Impact Fee

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Policy shall not repeal, modify or affect any impact fee of the City in existence as of the effective date of this Ordinance. All impact fees established, including amendments and modifications to previously existing impact fees, after the effective date of this Ordinance shall comply with the requirements of this Impact Fee Policy.

(Ord 9-95, Add, 7/10/95)(Ord. 97-12, Add, 7/15/97)(Ord. 97-10, Add, 7/15/97)(Ord 97-9, Repealed and Replaced, 7/15/97)(Ord. 2002-22, Repealed and Replaced, 8/20/2002)

Chapter 11.05

PARKS, RECREATION AND TRAILS FACILITIES IMPACT FEES

11.05.010	SHORT TITLE
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11.05.030	DEFINITIONS
11.05.040	WRITTEN IMPACT FEE ANALYSIS
11.05.050	IMPACT FEE CALCULATIONS
11.05.060	CAPITAL FACILITIES PLAN
11.05.070	IMPACT FEE SCHEDULE AND FORMULA
11.05.080	FEE EXCEPTIONS AND ADJUSTMENTS
11.05.090	APPEAL PROCEDURES
11.05.100	MISCELLANEOUS

Section 11.05.010 Short Title

This ordinance shall be known and may be cited as the "Lindon City Parks Recreation and Trails Impact Fee Ordinance."

Section 11.05.020 Purpose

This Impact Fee Ordinance establishes the City's Parks, Recreation and Trails Impact Fee policies and procedures and repeals certain provisions of prior ordinances related to Parks, Recreation and Trails Impact Fees and conforms to the requirements of the Utah Impact Fees Act (§11-36). This Ordinance repeals any prior ordinances related to Parks,

Recreation and Trails Impact Fees and establishes Impact Fees for parks, recreation, and trails facilities within the Lindon City-Wide Service Area, provides a schedule of Impact Fees for differing types of land-use development, and sets forth direction for challenging, modifying and appealing Impact Fees.

Section 11.05.030 Definitions

Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Ordinance. The following words and phrases shall have the following meanings:

1. "Capital Facilities Plan" means the plan required by Section 11-36-201 of the Act. In Section 11-36-201 (2)(e) there is an exception to the Capital Facilities Plan for cities of 5,000 or less in population, based on the latest census. Lindon City does not meet this exception and has thus completed a Capital Facilities Plans in accordance with the Act and has adopted the Capital Facilities Plans in conjunction with this Ordinance.

2. "Development Activity" means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land located within the Lindon City-Wide Service Area that creates additional demand and need for Public Facilities related to parks, recreation facilities and trails.

3. "Development Approval" means any written authorization from the City that authorizes the commencement of Development Activity. Typically, development approval would be in the form of a building permit issued by the City's building department.

4. "Dwelling Unit" has the same meaning as defined in Title 17 Chapter 2, Section 010 of the Lindon City Code.

5. "Dwelling, single-family" means a building containing only one (1) dwelling unit.

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6. “Dwelling, multiple-family” means a building containing more than one (1) dwelling unit.

7. “City” means a local political subdivision of the State of Utah and is referred to herein as Lindon City.

8. “Impact Fee” means a payment of money imposed upon Development Activity as a condition of development approval. “Impact Fee” includes development Impact Fees, but is not a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees.

9. “Project Improvements” means site improvements and facilities that are planned and designed to provide service for development resulting from a Development Activity and are necessary solely for the use and convenience of the occupants or users of said Development Activity. “Project improvements” do not include “System Improvements” as defined below.

10. “Proportionate Share” of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a Development Activity.

11. “Public Facilities” means, for purposes of this Ordinance, parks, recreation and trail improvements or facilities of the Lindon City-Wide Service Area.

12. “Service Area” refers to a geographic area designated by the City based on sound planning and engineering principles in which a defined set of the City’s Public Facilities provides service. For purposes of this Ordinance, the Lindon City-Wide Service Area shall have coterminous boundaries with the City. The Lindon City-Wide Service Area is identified in the attached map (Exhibit A: Map of the Lindon City-Wide Service Area).

13. “System Improvements” refer both to existing Public Facilities designed to provide services within the Lindon City-Wide Service Area and to future Public Facilities identified in the Parks, Trails, and Recreation Master Plan and Capital Facilities Plan adopted by the City that are intended to provide service to the Lindon City-Wide Service Area. “System Improvements” do not include “Project Improvements” as defined above.

Section 11.05.040 Written Impact Analysis

1. Executive Summary. A summary of the findings of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in Parks, Recreation, and Trails Impact Fee Analysis and demonstrates the need for Impact Fees to be assessed on Development Activity. The Executive Summary has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.

2. Written Impact Fee Analysis. The City has commissioned the Written Parks, Recreation, and Trails Impact Fee Analysis for the Parks, Recreation, and Trails Impact Fees that identifies the impacts upon the park, recreation, and trail systems and the facilities required by Development Activity, demonstrates how those impacts on System Improvements are reasonably related to 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 Impact Fees are calculated. A copy of Written Parks, Recreation, and Trails Impact Fee Analysis has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.

3. Proportionate Share Analysis. The City has prepared a Proportionate Share Analysis which analyzes whether or not the proportionate

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share of the costs of future Public Facilities is reasonably related to new Development Activity. The Proportionate Share Analysis identifies the costs of existing Public Facilities, the manner of financing existing Public Facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in the Written Parks, Recreation, and Trails Impact Fee Analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.

Section 11.05.050 Impact Fee Calculations

1. Ordinance Enacting Impact Fees. The City Council will, by this Ordinance, approve Impact Fees in accordance with the Written Impact Fee Analysis.

a. Elements. In calculating the Impact Fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of System Improvements, and outstanding or future debt service charges if the City might use Impact Fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of System Improvements.

b. Notice and Hearing. In conjunction with the approval of this Ordinance, the City held a public hearing on April 7, 2009, and made a copy of the Ordinance available to the public, at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9-103(2). After the public hearing, the City Council adopted this Impact Fee Ordinance as presented herein.

c. Contents of the Ordinance. The Ordinance adopting or modifying an Impact Fee contains such detail and elements as deemed appropriate by the City Council, including a designation of the Lindon City-Wide Service Area within which the Impact Fees are to be calculated and imposed. The Lindon City-Wide Service Area will be the only service area included in this analysis, with a map defining their boundaries included in Exhibit A: Map of the Lindon City-Wide Service Area. The Ordinance includes (i) a schedule of Impact Fees to be imposed for parks, recreation and trails and (ii) the formula to be used by the City in calculating the Impact Fee.

d. Adjustments. The standard Impact Fee 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 standard Impact Fee may also be adjusted to ensure that Impact Fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes. The Impact Fee assessed to a particular development may also be adjusted should the developer supply sufficient written information and/or data to the City showing a discrepancy between the fee being assessed and the actual impact on the system.

e. Previously Incurred Costs. To the extent that new growth and development will be served by previously constructed improvements, the City's Impact Fees may include public facility costs and outstanding bond costs related to the park, recreation and trail improvements previously incurred by the City. These costs may include all projects included in the Capital Facilities Plan which are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations. Any future debt obligations determined to be necessitated by growth activity will also be included to offset the costs of future capital projects.

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2. Developer Credits. A developer may be allowed a credit against Impact Fees for any dedication or improvement to land or new construction of System Improvements provided by the developer provided that it is (i) identified in the City's Capital Facilities Plan and (ii) required by the City as a condition of approving the Development Activity. Otherwise, no credit may be given.

3. Impact Fees Accounting. The City will establish a separate interest-bearing ledger account for the Impact Fees collected pursuant to this Ordinance and will conform to the accounting requirements provided in the Impact Fees Act. All interest earned on the collection of Parks, Recreation and Trails Impact Fees shall accrue to the benefit of the segregated account. Impact Fees collected prior to the effective date of this Ordinance need not meet the requirements of this section.

a. Reporting. At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.

b. Impact Fee Expenditures. The City may expend Impact Fees covered by the Impact Fees Policy only for System Improvements that are (i) Public Facilities identified in the City's Capital Facilities Plans and (ii) of the specific public facility type for which the fee was collected. Impact Fees will be expended on a First-In First-Out ("FIFO") basis.

c. Time of Expenditure. Impact Fees collected pursuant to the requirements of this Impact Fees Ordinance are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the City, unless the City Council directs otherwise. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

d. Extension of Time. The City may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.

4. Refunds. The City shall refund any Impact Fees paid by a developer plus interest actually earned when (i) the developer does not proceed with the Development Activity and files 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.

5. 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

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be reimbursed to the developer who installed improvements that service the land to be connected with the City's system.

6. Additional Fees and Costs. The Impact Fees authorized hereby 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 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.

7. Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the Impact Fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Section 6 below.

8. Imposition of Additional Fee or Refund After Development Activity. Should any developer undertake Development Activities such that the ultimate density 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 Impact Fee is not initially charged against all units or the total density within the development, the City shall be entitled to charge an additional Impact Fee to the developer or other appropriate person covering the density for which an Impact Fee was not previously paid.

Section 11.05.060 Capital Facilities

1. Capital Facilities Plan. The City has developed a Parks, Trails, and Recreation Master Plan and Capital Facilities Plan for the City's parks, recreation, and trail systems. The Parks, Trails, and Recreation Master Plan and Capital Facilities Plan has been prepared based on reasonable growth assumptions for the Lindon City-Wide Service Area, and analyzes the general demand characteristics of current and future users of each system.

Furthermore, the Capital Facilities Plan 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.

Section 11.05.070 Impact Fee Schedule Formula

1. Maximum Supportable Impact Fees. The fee schedule included herein represents the maximum Impact Fees which the City may impose on development within the defined Lindon City-Wide Service Area and are based upon general demand characteristics and potential demand that can be created by each class of user. The City reserves the right under the Impact Fees Act (Utah Code 11-36-202(2)(c,d)) to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed.

This adjustment may result in a higher Impact Fee if the City determines that a user would create a greater than normal impact on any of the systems. The City may also decrease the Impact Fee if the developer can provide documentation that the proposed impact will be less than what could be expected given the type of user (Utah Code 11-36-202(3)(a)).

RECOMMENDED MAXIMUM PARKS, RECREATION AND TRAILS IMPACT FEE:

PER DWELLING UNIT – SINGLE FAMILY –
\$4500

PER DWELLING UNIT – MULTI FAMILY –
\$4000

Section 11.05.080 Fee Exceptions and Adjustments

1. Waiver for "Public Purpose". The City Council may, on a project by project basis, authorize exceptions or adjustments to the Impact Fees due

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from development 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 facilities being funded by tax-supported agencies, affordable housing projects, or facilities of a temporary nature. The City Council may elect to waive or adjust Impact Fees in consideration of economic benefits to be received from the developer's activity.

a. Procedures. 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 11.05.090 Appeal Procedure

1. Any person or entity that has paid an Impact Fee pursuant to this Ordinance may challenge the Impact Fee by filing:

- a. An appeal to the City pursuant to paragraph 2, 3 and 4 of this Section 8;
- b. A request for arbitration as provided in Utah Code Ann. § 11-36-402(1), as amended; or
- c. An action in state district court as provided in Utah Code Ann. § 11-36-401(4)(c)(iii), as amended.

1. Application. Any person or entity that has paid an Impact Fee pursuant to this Ordinance may challenge or appeal the Impact Fee by filing a written notice of appeal with the City Council within 30 days of the date that the fee was paid.

2. Hearing. Upon receiving the written notice of appeal, the City 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.

3. Decision. The hearing panel, which shall consist of the City Council or such other body as the City Council shall designate, shall hold a hearing and make a decision within 30 days after the date the challenge or appeal is filed.

Section 11.05.100 Miscellaneous

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

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

3. Effective Date. Except as otherwise specifically provided herein, this 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, other than those expressly referenced in Section 1 above. All Impact Fees established, including amendments and modifications to previously existing Impact Fees, after the effective date of this Ordinance shall comply with the requirements of this Impact Fee Ordinance. (Ordinance 2009-5, approved 04/07/2009).

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Chapter 11.08

LINDON CITY STORM WATER IMPACT FEE ORDINANCE

Sections:

11.08.010	Short title
11.08.020	Intents and purposes
11.08.030	Rules of construction
11.08.040	Definitions
11.08.050	Imposition of impact fee
11.08.060	Computation of the amount of impact fee
11.08.070	Payment of fee
11.08.080	Storm water impact fee districts
11.08.090	Impact fee trust funds established
11.08.100	Use of funds
11.08.110	Refund of fees paid
11.08.120	Exemptions and credits
11.08.130	Review
11.08.140	Penalty Provision
11.08.150	Challenges and appeals

11.08.010 Short title

This ordinance shall be known and may be cited as the "Lindon City Storm Water Impact Fee Ordinance."

(Ord. 97-11, Add, 10/03/2000)

11.08.020 Intents and purposes

1. This ordinance is intended to assist in the implementation of the Lindon City General Plan.
2. The purpose of this ordinance is to regulate the use and development of land so as to assure that new development bear a proportionate share of the cost of capital expenditures necessary for public facility improvements in Lindon City.

(Ord. 97-11, Add, 10/03/2000)

11.08.030 Rules of construction

1. The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose in the interest of the

public health, safety, and welfare.

2. For the purpose of administration and enforcement, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:

- a. In the case of difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- b. The word *shall* is always mandatory and not discretionary; the word *may* is permissive.
- c. Words used in the present tense shall include the future; words used in the singular shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- d. The phrase *used for* includes *arranged for*, *designed for*, *maintained for*, or *occupied for*.
- e. The word *person* includes individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- f. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction *and*, *or* or *either...or*, the conjunction shall be interpreted as follows:
 - i. *And* indicates that all the connected terms, conditions, provisions or events shall apply.
 - ii. *Or* indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - iii. *Either...or* indicates that the connected items, conditions, provisions, or events shall apply

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singly but not in combination.

- g. The word *includes* shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- h. *Mayor* means the Mayor or the City officials he/she may designate to carry out the administration of this ordinance.

(Ord. 97-11, Add, 10/03/2000)

11.08.040 Definitions

- 1. A *fee payer* is a person applying for the issuance of a building permit or permit for mobile home installation.
- 2. A *capital improvement* includes public facility planning and engineering, land acquisition, site improvements, buildings, and equipment but excludes maintenance and operation.
- 3. *Development order* means a regulatory approval by Lindon City.
- 4. *Private recreational facility* is any recreational facility which is not owned by or dedicated to any governmental entity.

(Ord. 97-11, Add, 10/03/2000)

11.08.050 Imposition of impact fee

- 1. Any person who, after the effective date of this ordinance, seek to develop land within Lindon City, Utah, by applying for a land use permit or building permit for a building or permit for a mobile home installation, is hereby required to pay an impact fee in the manner and amount set forth in this ordinance.
- 2. No new building permit or new permit for mobile home installation for any activity requiring payment of an impact fee pursuant to Section 070 of this ordinance shall be issued unless and until the impact fee hereby required has been paid.

- 3. No extension of a building permit or permit for mobile home installation issued prior to the effective date of this ordinance for any activity requiring payment of an impact fee pursuant to Section 070 of this ordinance shall be granted unless and until the impact fee hereby required has been paid.

(Ord. 97-11, Add, 10/03/2000)

11.08.060 Computation of the amount of impact fee

- 1. The amount of the impact fee shall be determined by the following formula:
 - a. Development cost for storm water facilities related to new growth
 - b. Total new growth households
 - c. Credit for past payments
 - d. Credit for future payments
$$(a \setminus b) = \text{Total Cost}$$
$$\text{TC} - (\text{TC} * c) - d = \text{Impact Fee}$$
 - i. If a land use application or building permit is requested for mixed uses, then the fee shall be determined using the above schedule by apportioning the space committed to uses specified on the schedule.
 - ii. If the type of development activity that a land use applications or building permit is applied for is not specified on the above fee schedule, the Mayor shall use the fee applicable to the most comparable type of land use on the above fee schedules. The Mayor shall be guided in the selection of a comparable type by the Lindon City General Plan, supporting documents of the Lindon City General plan, and the Lindon City Zoning Ordinance. If the Mayor determines that there is not

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- comparable type of land use on the above fee schedule then the Mayor shall determine the appropriately discounted fee by considering the demographic or other documentation which is available from state, local, and regional authorities.
- iii. In the case of change of use, redevelopment, or expansion or modification of an existing use which required the issuance of a land use application or building permit or permit for mobile home installation, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.
2. If the fee payer opts not to have the impact fee determined according to paragraph 1 of this section, then the fee payer shall prepare and submit to the Mayor an independent fee calculation study for the land development activity for which a land use application or building permit or permit for mobile home installation is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Mayor shall consider the documentation submitted by the fee payer but is not required to accept such documentation as he/she shall reasonably deems to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay impact fees based upon the schedule shown in paragraph 1 of this section. If an acceptable independent fee calculation

study is presented, the Mayor may adjust the fee to that appropriate to the particular development. Determinations made by the Mayor pursuant to this paragraph may be appealed to the City Council by filing a written appeal request with the Mayor within ten (10) days of the Mayor's determination.

(Ord. 97-11, Add, 10/03/2000)

11.08.070 Payment of fee

1. The fee payer shall pay the Culinary Water Impact Fee required by this ordinance to the Mayor or his/her designee prior to the issuance of a land use permit or building permit or a permit for mobile home installation.
2. All funds collected shall be property identified by impact fee type and district and promptly transferred for deposit in the appropriate impact fee trust fund to be held in separate accounts as determined by Section 090 of this ordinance and used solely for the purpose specified in this ordinance.

(Ord. 97-11, Add, 10/03/2000)

11.08.080 Storm water impact fee districts

There are hereby established Storm Water Impact Fee districts as shown in the Written Analysis as adopted by resolution of the City Council and incorporated herein by reference.

(Ord. 97-11, Add, 10/03/2000)

11.08.090 Impact fee trust funds established

1. There are hereby established separate impact fee trust funds, one for each public facility type established by the Written Analysis and district as established in section 080 of this ordinance.
2. Funds withdrawn from these accounts

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must be used in accordance with the provisions of section 100 of this ordinance.

(Ord. 97-11, Add, 10/03/2000)

11.08.100 Use of funds

1. Funds collected from impact fees shall be used solely for the purpose of acquiring and/or making capital improvements and their related costs to public facilities under the jurisdiction of Lindon City.
2. Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the impact fee districts as identified in the Written Analysis, from which funds were collected or for projects in other impact fee districts which are of benefit to the impact fee district from which the funds were collected (e.g. The Main City Park). Funds shall be expended in the order in which they are collected.
3. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in paragraph 1 above and are located within the appropriate impact fee districts created by section 080 of this ordinance or as provided in paragraph 2 of this section.
4. At least once each fiscal period the Mayor shall present to the City Council a proposed capital improvements program for public facilities, assigning funds, including any accrued interest, from the several impact trust funds to specific public improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period

shall be retained in the impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this ordinance.

5. Funds may be used to provide refunds as described in section 110.
6. The City shall be entitled to retain not more than twenty percent (20%) of the funds collected as compensation for the expense of collecting the fee and administering this ordinance.

(Ord. 97-11, Add, 10/03/2000)

11.08.110 Refund of fees paid

1. If a land use permit, building permit or permit for mobile home installation expires without commencement of construction, the fees have not been spent or encumbered, and no impact has resulted, then the fee payer shall be entitled to a refund, with interest at the rate of six percent (6%) per annum, of the impact fee paid as a condition for its issuance except that the City shall retain ten percent (10%) of the fee to offset a portion of the cost of collection and refund. The fee payer must submit an application for such refund to the Mayor within thirty (30) days of the expiration of the permit.
2. Except as provided in Subsection (b) 11-36-302 of the UCA 1953. Any funds not expended or encumbered by the end of the calendar year immediately following six (6) years from the date the impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of six percent (6%) per annum, provided that the landowner submits an application for a refund to the Mayor of Lindon City within 180 days of the expiration of the six-year period.

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(Ord. 97-11, Add, 10/03/2000)

11.08.120 Exemptions and credits

1. The following may be exempted from payment of the impact fee:

- a. Alterations or expansion of an existing building where no additional residential units or equivalent residential units are created and where the use is not changed.
- b. The construction of accessory buildings or structures where no additional residential units or equivalent residential units are created and where the use is not changed.
- c. The replacement of a destroyed or partially destroyed building or structure with a new structure of the same size and use.
- d. The installation of a replacement mobile home on a lot or other such site when an impact fee for such mobile home site has previously been paid pursuant to this ordinance or where a mobile home legally existed on such site on or prior to the effective date of this ordinance.
- e. The construction of building by a government agency or other development activities with a broad public purpose as determined by the Mayor. In the event that an exemption is granted, the City Council shall establish the source of funding to pay for the impact of the development activity.

Any claim of exemption must be made no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

2. Credits:

- a. Public capital improvements may be

offered by the fee payer as total or partial payment of the required impact fee. The offer must specifically request or provide for an impact fee credit. If the Mayor accepts such an offer, whether the acceptance is before or after the effective date of this ordinance, the credit shall be determined and provided in the following manner:

- i. Credit for the dedication of land shall be valued at 100 percent of the most recent assessed value by the Salt Lake County Property Appraiser; by such other appropriate method as the City Council may have accepted prior to the effective date of this ordinance for particular public improvements; or by fair market value established by private appraisers acceptable to the City. Credit for the dedication of park land shall be provided when the property has been conveyed to at no charge to, and accepted by, the City in a manner satisfactory to the City Council.
- ii. Applicants for credit for construction of public improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Mayor. The Mayor shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Mayor determines that such estimates submitted by the applicant are either unreliable or

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- inaccurate. The Mayor shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description of other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Mayor before credit will be given. The failure of the applicant to sign, date and return such document within sixty (60) days shall nullify the credit.
- iii. Except as provided in subparagraph (iv) below, credit against impact fees otherwise due will not be provided until:
1. the construction is completed and accepted by the City;
 2. a suitable maintenance and warranty bond is received and approved by the Mayor of Lindon City, when applicable.
- iv. Credit may be provided before completion of specified public improvements if adequate assurances are given by the applicant that the standards set out in subparagraph (iii) above will be met and if the fee payer posts security as provided below for the costs of such construction. Security in the form of a cash escrow agreement shall be posted with and approved by the Mayor of Lindon City at one hundred and twenty-five percent (125%) of the amount determined by the City engineer. Twenty-five percent (25%) of the cash escrow account shall remain for two years after completion of the project, as a guarantee of the work, pursuant to Lindon City's Cash Bond Escrow Agreement. If the public improvement construction project will not be constructed within one (1) year of the acceptance of the offer by the Mayor, the amount of the security shall be increased by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the Mayor prior to acceptance of the security by the City Council. If the public improvement construction project is not to be completed within five (5) years of the date of the fee payer's offer, the City Council must approve the public improvement project and its scheduled completion date prior to the acceptance of the offer by the Mayor.
- b. Any claim for credit must be made no later than the time of application for a land use permit, building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.
- c. Credits shall not be transferable from one project or development to another without the approval of the City Council and may only be transferred to a development within a different impact fee district upon a finding by the City Council that the dedication for which the credit was given benefits such different impact fee district.

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d. Determinations made by the Mayor pursuant to this paragraph may be appealed to the City Council by filing a written appeal with the Mayor within ten (10) days of the Mayor's determination.

(Ord. 97-11, Add, 10/03/2000)

11.08.130 Review

The fee schedule contained in section 060 (1) shall be reviewed by the City Council at least once each fiscal biennium (i.e. every two years).

(Ord. 97-11, Add, 10/03/2000)

11.08.140 Penalty Provision

A violation of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution Lindon City shall have the power to sue in civil court to enforce the provisions of this ordinance.

(Ord. 97-11, Add, 10/03/2000)

11.08.150 Challenges and appeals

Any challenges or appeals of this impact fee must comply with Section 11/36/401 of the Utah Code Annotated 1953.

(Ord. 97-11, Add, 10/03/2000)

Chapter 11.12

IMPACT FEES FOR ROADWAY FACILITIES

Sections:

11.12.010	Purpose
11.12.020	Definitions
11.12.030	Impact Fee Analysis
11.12.040	Impact Fee Calculations
11.12.050	Roadways Impact Fee Schedule & Multipliers
11.12.060	Fee Exceptions and Adjustments

11.12.070	Appeal Procedure
11.12.080	Miscellaneous

Section 11.12.010 Purpose

This Impact Fee Ordinance is promulgated pursuant to the requirements of the Impact Fees Act. This ordinance revises the existing impact fees for Roadway Facilities within the I-15 Region, describes certain capital improvements to be funded by impact fees, provides a schedule of impact fees for differing types of land-use development, and sets forth direction for challenging and appealing impact fees.

Section 11.12.020 Definitions

Words and phrases that are defined in the Impact Fees Act shall have the same definition in this Impact Fee Ordinance. The following words and phrases shall have the following meanings:

1. "Capital Facilities Plan" means the plan required by Section 11-36-201 (2)(b) of the Impact Fees Act. In Section 11-36-201 (2)(e) there is an exception to the Capital Facilities Plan for Cities of 5,000 or less population, based on the latest census. Lindon does not meet this exception, therefore, they have completed a comprehensive Capital Facilities Plan, in accordance with the Act and will adopt said plan on November 16, 2004, as included in Exhibit B.
2. "Development Activity" mean any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand or need for public facilities. Development activity will include residential, commercial, industrial and institutional users who are not currently connected to the City's Roadway system, but will locate within the Lindon I-15 Region.
3. "Development Approval" means any written authorization from the City that authorizes the commencement of development activity.
4. "City" means a local political subdivision of the State of Utah and is referred to herein as Lindon City (the "City").
5. "Impact Fee" means a payment of money imposed upon development activity as a

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- condition of development approval. "Impact fee" includes development impact fees, but does not include a tax, a special assessment, a hook up fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees.
6. "Project Improvements" means site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupant or users of development resulting from a development activity. "Project improvements" do not include "system improvements" as defined below.
 7. "Proportionate Share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of a development activity.
 8. "Public Facilities" shall mean Roadway improvements which are owned or operated by the City and have useful lives of ten or more years and are defined in the Capital Facilities Plan as the 700 North and I-15 Interchange Projects.
 9. "Service Area" shall mean the I-15 Regional Transportation Area, which includes service areas A, B, C, and D as defined above and refers to a geographic area designated by the City based on sound planning or engineering principles in which a defined set of the City's public facilities provides service. The service areas for purposes of the Roadway System Impact Fee Ordinance include all of the area within the jurisdictional boundaries of the Lindon I-15 Region. (Exhibit A: Map of the Lindon I-15 Regional Transportation Area)
 10. "System Improvements" refer both to existing public facilities designed to provide services within the Lindon I-15 Region and to future public facilities identified in reasonable plan for capital improvements adopted by the City that are intended to provide service to the Lindon I-15 Region. "System improvements"

do not include "Project improvements" as defined above.

Section 11.12.030 Impact Fee Analysis

1. Executive Summary. A summary of findings and conclusions of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in Exhibit C and demonstrates the need for impact fees to be charged. A copy of the Executive Summary is included in the Impact Fee Analysis and has been available for public inspection 14 days prior to adoption of this ordinance.
2. Written Analysis. The City has prepared a Written Analysis for the Roadway impact fees that identifies the impact upon the roadways system 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 impact fees are calculated. A copy of the Written Analysis is included in the Impact Fee Study and has been available for public inspection 14 days prior to the adoption of this ordinance.
3. Proportionate Share Analysis. Part and parcel to the written study the City prepared a Proportionate Share Analysis analyzing whether or not the proportionate share of the costs of public facilities identified in the CFP are reasonably related to new development activity. The Proportionate Share Analysis identified the costs of existing public facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in the Impact Fee Analysis and has been available for public inspection 14 days

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prior to the adoption of this ordinance.

Section 11.12.040 Impact Fee Calculations

1. Ordinance Enacting Impact Fees. The City Council will, by this ordinance, approve an impact fee in accordance with the impact fee analysis set forth in Exhibit C: Lindon City Roadway Impact Fee Analysis.

- a. Elements. In calculating the impact fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the City might use impact fees as revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.
- b. Notice and Hearing. Before approving the ordinance, the City shall hold a public hearing on November 16, 2004, and make a copy of the ordinance available to the public in the Pleasant Grove Library at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9-103(2). After the public hearing, the City Council adopted this impact fee ordinance as proposed.
- c. Adjustments. The standard impact fee may be adjusted at the time the fee is imposed in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to insure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes.
- d. Previously Incurred Costs. To the extent that the new growth and development will be served by previously constructed

improvements, the city's impact fee may include public facility costs and bond costs related to the roadway improvements and previously incurred by the City. These costs may include all projects included in the CFP which are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations. As of the date of this ordinance, there are no outstanding debt obligations to be included in the impact fee calculations.

2. Development Credits. Development may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer provided that it is (i) identified in the City's Capital Facilities Plan and (ii) required by the City as a condition of approving the development activity. Otherwise, no credit may be allowed unless expressly provided by Section 11.12.060 below.
3. Impact Fees Accounting. The City will establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee promulgated in accordance with the requirements of the Impact Fees Act deposited in the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account.
 - a. Reporting. At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.
 - b. Impact Fee Expenditures. The City may expend impact fees covered by the Impact Fees Ordinance only for system improvements that are (i) public facilities identified in the City's CFP and (ii) of the specific public facility type for which the fee was collected.
 - c. Time of Expenditure. Impact fees

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collected pursuant to the requirements of this Impact Fees Ordinance are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the City, unless the City Council otherwise directs. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

- d. Extension of Time. The City may hold previously dedicated or unencumbered fees for longer than six years if it identified in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.
4. Refunds. The City shall refund any impact fees paid by a developer, plus interest actually earned when (i) the developer does not proceed with the development activity and files 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 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.
5. 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, in 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 that land to be connected to the City's system.
6. Additional Fees and Costs. The impact fees authorized hereby are separate from and in

addition to use 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 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.

7. Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at time of payment in accordance with the provisions of Section 11.12.050 below.
8. Imposition of Additional Fee or Refund after Development. Should any developer undertake development activities such that the ultimate density 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 impact fee is not initially charged against all units or the total density within the development, the City shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid.

Section 11.12.050 Roadways Impact Fee Schedule & Multipliers

	Service Area A
Capital Improvement	700 N / I-15
Proportionate Share of Costs	6/24% / 41.86%
Capital Project Costs	\$ 198,066
Proposed Series 2006 Costs	295,964
(Bond Proceeds from 2006 Bonds)	(198,066)
Series 2000 B Costs	812,322
Buy-In Cost	(45,901)
Impact Fee Analysis Updates	5,991
Fee Stabilization Charge (Credit)	190,124
Total Costs	\$ 1,258,501
Trip Ends Served	26,775
<i>Impact Fee per Trip End</i>	<i>\$ 47.00</i>

	Service Area B
Capital Improvement	700 N / I-15
Proportionate Share of Costs	33.66% / 12.67%
Capital Project Costs	\$ 1,068,154
Proposed Series 2006 Costs	1,596,115
(Bond Proceeds from 2003 Bonds)	(1,068,154)

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Series 2000 B Costs	245,939
Buy-In Cost	(13,897)
Impact Fee Analysis Updates	20,615
Fee Stabilization Charge (Credit)	(155,777)
Total Costs	\$ 1,692,996
Trip Ends Served	15,200
<i>Impact Fee per Trip End</i>	<i>\$ 111.38</i>

Service Area C	
Capital Improvement	700 N / I-15
Proportionate Share of Costs	35.29% / 15.78%
Capital Project Costs	\$ 1,119,760
Proposed Series 2006 Costs	1,673,228
(Bond Proceeds from 2006 Bonds)	(1,119,760)
Series 2000 B Costs	306,163
Buy-In Cost	(17,300)
Impact Fee Analysis Updates	21,748
Fee Stabilization Charge (Credit)	37,238
Total Costs	\$ 2,021,077
Trip Ends Served	22,862
<i>Impact Fee per Trip End</i>	<i>\$ 88.40</i>

Service Area D	
Capital Improvement	700 N / I-15
Proportionate Share of Costs	1.5% / 8.85%
Capital Project Costs	\$ 47,574
Proposed Series 2006 Costs	71,088
(Bond Proceeds from 2006 Bonds)	(47,574)
Series 2000 B Costs	171,699
Buy-In Cost	9,702
Impact Fee Analysis Updates	1,373
Fee Stabilization Charge (Credit)	20,374
Total Costs	\$ 254,832
Trip Ends Served	6,431
<i>Impact Fee per Trip End</i>	<i>\$ 39.62</i>

Further calculation and presentation is included in the Written Impact Fee Analysis.

Commercial and Residential Multipliers		
Land Use Categories	Trip Ends	Adjustment Factors
<i>Non-Residential(Per 1000 Sq ft)</i>		
Office Building	11.0	50%
Medical Office	36.1	21%
Retail	66.4	45%
Quality Restaurant	90.0	40%
Fast Food/Drive-Thru	587.0	10%
Convenience Market with Gas Pumps	1448.3	5%
Quick Lube Center	41.0	5%
Supermarket	111.5	35%
Video Rental	87.7	40%
Bank Drive Thru	265.2	5%
Automobile Care Centers	15.9	40%
Manufacturing	3.8	45%
Specialty Retail	40.7	45%
Hotel (per room)	8.2	21%
General Heavy Industrial	7.0	45%

RV Park/Campground	4.1	50%
Golf Course (per acre)	5.6	35%
Driving Range	21.6	35%
Recreational Community Center	11.4	21%
<i>Residential (per Unit)</i>		
Low Density Residential	7.0	50%
Medium Density Residential	7.0	50%

Section 11.12.060 Fee Exceptions and Adjustments

1. Waiver for "Public Purpose." The City Council may, on a project by project basis, authorize exceptions or adjustments to the impact fee rate structure for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. This option is available to: (i) respond to unusual circumstances in specific cases, (ii) ensure that the impact fees are imposed fairly, (iii) exempt low income housing and other development activities from impact fees to pay for the development activity, and (iv) induce certain development that will generate sales tax, property tax or franchise tax in an amount sufficient to defray a fair cost of the infrastructure being provided.

- a. Procedures. 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. Upon receipt of an application, the City Council shall cause a study to be completed, which will evaluate the net economic value received compared to the magnitude of impact fees being waived.

Section 11.12.070 Appeal Procedure

1. Application. The appeal procedure applies to challenges to the legality of impact fees, to similar and related fees of the City and to the interpretation and/or application of those fees. By way of illustration, in addition to the legality of the impact fee schedule, determinations of the density of a development activity or calculation of the amount of the impact fee due will also be subject to this appeal procedure.

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2. Declaratory Judgement Action. 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 a service area may file a declaratory judgment action challenging the validity of an impact fee.
3. Request for Information Concerning the Fee. Any person or entity required to pay an impact fee who believes the fee does not meet the requirements of law may file a written request for information concerning the fee with the City. The City will provide the person or entity with the City's written impact fee analysis, capital facilities plan and other relevant information relating to the impact fee within two weeks of receipt of the request for information.
4. Appeal to the City After Payment of the Impact Fee; Statute of Limitations for Failure to File. Any person or entity who has paid an impact fee and wishes to challenge the fee shall file a written request for information concerning the fee and proceed under the City's appeal procedure. A challenge may not be initiated unless it is initiated within:
 - a. Challenge of Noticing Requirements. The person or entity has 30 days after paying an impact fee adopted on or after July 1, 2000 for a challenge of the noticing requirements of the Impact Fees Act.
 - b. Challenge of Other Procedural Requirements. The person or entity has 180 days after paying an impact fee adopted on or after July 1, 2000 for a challenge of other procedural requirements for imposing impact fees.
 - c. Challenge of Fees Adopted Prior to July 1, 2000. The person or entity has one year after paying an impact fee for a challenge to impact fees adopted prior to July 1, 2000.
5. Challenge by Arbitration. Each person or entity intending to challenge an impact fee shall file a written request for arbitration with

the local political subdivision within the time limitation provided for the applicable type of challenge as is stated in §11-36-402(2). If a person or entity files a written request for arbitration, an arbitrator or arbitration panel shall be selected and a hearing on the challenge shall be held within thirty (30) days after the date the request for arbitration is filed. The arbitrator or arbitration panel shall then issue a decision in writing within ten (10) days from the date the hearing is completed.

Section 11.12.080 Miscellaneous

1. Severability. If any section, subsection, paragraph, clause or phrase of this Impact Fee Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Impact Fee Ordinance, which shall remain in full force and effect, and for this purpose, the provisions of this Impact Fee Ordinance are declared to severable.
2. Interpretation. This Impact Fee Ordinance has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this Impact Fee Ordinance shall not be affected by such division or by any heading contained herein.
3. Effective Date. Except as otherwise specifically provided herein, this 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. All impact fees established, including amendments and modifications to previously existing impact fees, after the effective date of this Ordinance shall comply with the requirements of this Impact Fee Ordinance.

(Ord. no. 2004-12, Amended, 11/16/2004; Ord. no. 2003-8, Adopted, 05/06/2003)