

LINDON CITY CODE

Chapter 17.68

REIMBURSEMENT FEES

Sections:

- 17.68.010 Definitions.
- 17.68.020 Application for Reimbursement Permitted.
- 17.68.030 Time for Making Application and Application.
- 17.68.040 Contents of Reimbursement Application.
- 17.68.050 Notice to Other Property Owners.
- 17.68.060 Other Required Information.
- 17.68.070 Hearing and Decision on Application.
- 17.68.080 Basis for Decision on Application.
- 17.68.090 Assessment of Fees.
- 17.68.100 Interest on Assessments and Fee.
- 17.68.110 Payment of Fees.
- 17.68.120 Payment of Costs to Lindon City.
- 17.68.130 Adjustments in Reimbursements and Fees.
- 17.68.140 Reimbursement Agreement.
- 17.68.150 Recoupment of costs by the city for improvements.

Section 17.68.010 Definitions.

As used in this chapter, the following words have the following meanings:

1. "Developer" means any person or entity which makes application for a building permit, subdivision plat approval, or similar construction or improvement approval.
2. "Public Improvements" means all construction work which is for the benefit of the city, residents of the city, or the general public. It includes, but is not limited to, water lines, sewage disposal lines and structures, storm sewers, debris basins, water tanks, holding ponds, street grading and surfacing, curbs and gutters, street drainage and drainage structures, sidewalks, irrigation systems, monuments, street trees, fire hydrants, secondary water system lines, and related public improvements. Land dedication shall not be considered a "public improvement." (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.020 Application for Reimbursement Permitted.

Any Developer of real property within the limits of Lindon City may make application, with the associated fee, to the City Council for reimbursement from neighboring and/or adjacent properties of a portion of the cost of constructing public improvements required by the Lindon City Code. Applications for reimbursement agreements should only be submitted after every effort has been made by the applicant to negotiate with neighboring and/or adjacent property owners regarding reimbursement of costs associated with the applicable development. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.030 Time for Making Application and Application.

Applications for reimbursement under this chapter shall be made in writing and submitted to the City Council within thirty (30) days after any of the following events occur: the date the Developer applies for a building permit, subdivision plat approval, or similar construction or improvement approval. The Application shall be accompanied with a non-refundable application review fee in such sum and shall be established by the City. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.040 Contents of Reimbursement Application.

Applications for reimbursement under this chapter shall contain the following information:

1. the name, address, and daytime telephone number of the Developer;
2. a specific list of all Public Improvements which the Developer proposes to construct or install on the Developer's property or on

LINDON CITY CODE

surrounding properties, for which the Developer seeks partial reimbursement;

3. the expected actual cost to the Developer of constructing such Public Improvements;
4. the basis for calculating the expected actual cost of constructing such Public Improvements;
5. the names of all owners of properties, other than those owned by the Developer, which Developer asserts will benefit directly from the installation or construction of the Public Improvements by the Developer;
6. the legal description of all properties which Developer asserts will benefit directly from the installation or construction of the Public Improvements by the Developer; the value of the benefit to be conferred on each; the basis for calculating the benefit to be conferred on each other property owner; and
7. a statement as to the amount of reimbursement the Developer believes he/she is entitled to receive from each other property owner.(Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.050 Notice to Other Property Owners.

The City shall mail a copy of the application required under Section 17.68.040. Said copies shall be mailed within 10 days after items required under 17.68.040 have been reviewed and the application is deemed complete and correct by the City Engineer. Each copy of the reimbursement application sent to other property owners shall be accompanied by a letter which shall:

1. contain a statement notifying the other property owners that they are entitled to submit information or documents relevant to determining the Developer's reimbursement amount, if any, to the City offices within thirty (30) days after receipt;
2. state the name and address of the City offices where information and documents may be sent; and

3. state the amount of reimbursement each individual property owner will be required to pay if the application is approved as submitted.

(Ord 2008-1, approved 02/19/2008, Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.060 Other Required Information.

Any developer seeking reimbursement under this chapter shall also provide the City Council with any other information requested by the City Council and helpful to the City Council in determining the reasonableness of the proposed reimbursement request. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.070 Hearing and Decision on Application.

Within ninety (90) days after the reimbursement application is deemed complete and correct by the City Engineer, the City Council shall hold a public hearing on the application, after giving ten (10) days prior notice to all affected property owners. After the public meeting is held, and after making its decision on the application, the City Council shall send notice of its decision regarding the reimbursement application to the Developer and all property owners affected. The decision may grant the reimbursement requested in whole or in part, or may deny reimbursement. (Ord 2008-1, approved 02/19/2008, Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.080 Basis for Decision on Application.

In deciding whether to grant or deny reimbursement, the City Council shall consider the reasonableness of the reimbursement and corresponding fees which will be imposed on

LINDON CITY CODE

other property owners. In determining the reasonableness of such reimbursement and fees, the City Council shall evaluate each of the following factors:

1. the cost of existing portions of the capital facilities;
2. the manner of financing existing capital facilities (such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants);
3. the relative extent to which the properties to be developed and the other properties in the municipality have already contributed to the cost of existing capital facilities (by such means as user charges, special assessments, or payment from the proceeds of general taxes);
4. the relative extent to which the properties to be developed and the other properties in the municipality will contribute to the cost of existing capital facilities in the future;
5. the extent to which the properties to be developed are entitled to a credit because the City is requiring their developers or owners (by contractual arrangement or otherwise) to provide common facilities (inside or outside the proposed development) that have been provided by the municipality and financed through general taxation or other means (apart from user charges) in other parts of the municipality;
6. extraordinary costs, if any, in servicing the properties to be developed;
7. the time-price differential inherent in fair comparisons of amounts paid at different times; and
8. such other factors as may impact on the reasonableness of the proposed reimbursement. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.090 Assessment of Fees.
Upon final determination of a reimbursement request which grants reimbursement, fees equal to the amount, in the aggregate, of the reimbursement granted, shall be assessed by the City Council against the other properties which

benefit from the proposed construction according to the respective benefit which each such property derives from the proposed construction in accordance with the reasonableness requirements of Section 17.68.080. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.100 Interest on Assessments and Fee.

Any final assessment of fees may include a requirement for the payment of interest on the principal amount of the fee to compensate the Developer for the time value of money given current and expected levels of inflation or deflation. However, in including such a requirement, the City Council may consider the probable deterioration in the public improvements over time which may reduce the value of the public improvements to the assessed property. The City Council may reduce, or eliminate any requirement for the payment of interest, as compensation for expected deterioration in the public improvements over time or as reasonableness, determined under Section 17.68.080, requires. Normally interest is offset by the depreciation of improvements. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.110 Payment of Fees.

Fees assessed under Section 17.68.090 shall be payable to the City at such time as the owner of the property against which the fee has been assessed makes application with the City for a building permit, subdivision plat approval, or similar construction approval (whichever happens first); and the owner of the property against which the fee has been assessed, plans to make use of or commences to utilize improvements installed, and paid for by the reimbursement applicant. Payment of fees shall be required as a condition of approval on any development application. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.120 Payment of Cost to

LINDON CITY CODE

Lindon City.

The Developer shall pay all expenses, attorney's fees, City overhead costs, and related expenses incurred by the City in assisting in the evaluation of the fees and application, and/or resolving any disputes over the validity of assessments or reimbursement amounts. This fee, less the amount of the reimbursement agreement application fee, shall be paid to Lindon City before the reimbursement agreement is signed, executed, and recorded. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.130 Adjustments in Reimbursements and Fees.

Reimbursements awarded or fees assessed may be adjusted at any time by the City Council for any of the following reasons:

1. Developer's failure to adequately document its actual costs and expenses incurred in constructing the Public Improvements which will benefit other property owners;
2. Fraudulent misrepresentation or non-disclosure of relevant facts known to the Developer at the time of application for reimbursement or thereafter;
3. Developer's failure to complete the required Public Improvements;
4. A subsequent and substantial change in circumstances which reasonably justifies modification of the original reimbursement or fees. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.140 Reimbursement Agreement.

Any Developer who has applied for and been granted reimbursement under this chapter shall execute a reimbursement agreement with the City. (Ord. No. 2003-2, Amended, 02/18/03; Ord. No. 10-82, Adopted, 10/21/92)

Section 17.68.150 Recoupment of costs by the city for improvements.

The City shall be entitled to collect from new

development, prior to the issuance of any permit or approval, the cost of any improvements for which the City has paid for and constructed, that would constitute a project improvement to the development activity. The project improvements shall include any improvement constructed and paid for by Lindon City that specifically benefits the development activity by providing improvements that are required to be installed by the developer or property owner prior to development. The costs shall be calculated by the City Engineer based on the City's costs of design and construction. The City shall then, by resolution of the City Council, require that those costs be paid by the development. The City may withhold the issuance of a permit for final approval, until such time as the costs are paid. (Ord. No. 2003-13, Adopted, 08/05/2003)