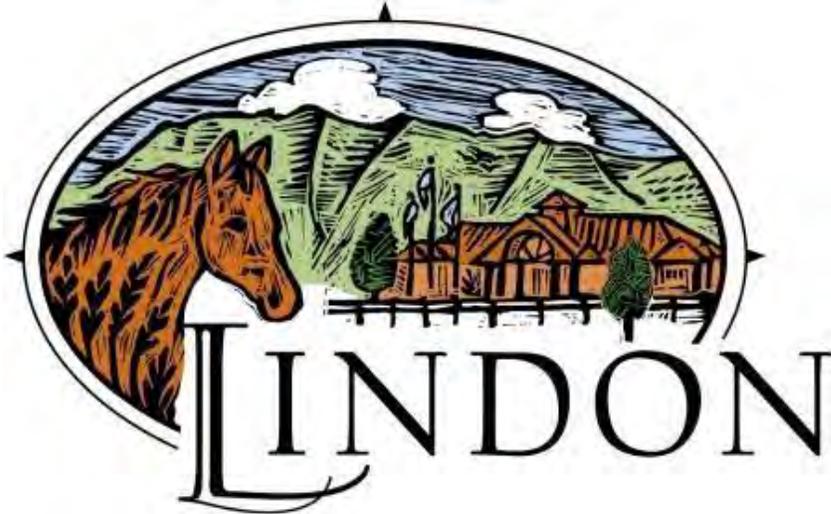
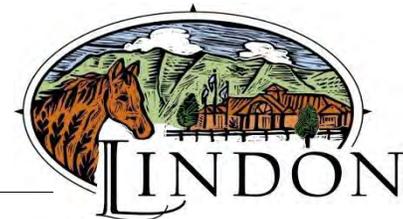


Lindon City Council Staff Report



Prepared by Lindon City
Administration

January 16, 2018



Notice of Meeting of the Lindon City Council

The Lindon City Council will hold a meeting beginning at 6:00 p.m. on Tuesday, January 16, 2018 in the Lindon City Center council chambers, 100 North State Street, Lindon, Utah. The agenda will consist of the following:

Scan or click here for link to download agenda & staff report materials:



MOBILE TOUR – 6:00 P.M. - Conducting: Mayor Jeff Acerson

1. Tour of New Sewer Lift Station

(60 minutes)

Lindon City Council will meet at the Lindon City Center then drive to Lindon’s new sewer lift station for a tour given by Brad Jorgensen, Lindon City Public Works Director. The new lift station is located at approximately 150 N. 1600 W. The Council will then return to the City Center. No motions will be made.

REGULAR SESSION – 7:00 P.M. - Conducting: Jeff Acerson, Mayor

Pledge of Allegiance: By Invitation

Invocation: Jake Hoyt

(Review times are estimates only)

1. Call to Order / Roll Call

(2 minutes)

2. Presentations and Announcements

(10 minutes)

- a) Comments / Announcements from Mayor and Council members
- b) Character Connection: Kathy Allred will present to the Mayor and City Council the accomplishments and activities that have occurred during the 2017 Lindon Character Connection program.

3. Approval of minutes: January 2, 2017

(5 minutes)

4. Consent Agenda – No Items

5. Open Session for Public Comment (For items not on the agenda)

(10 minutes)

6. Review & Action — Lease Agreement for City Center basement office space

(10 minutes)

The City Council will review and consider a 5-year office lease agreement between Lindon City and Inter Vivos, PLLC – Law Firm. The office space was previously occupied by the Lindon City Police Department and vacated in early 2017. The City does not anticipate need for the office space during the term of the lease.

7. Discussion Item — Options for Land and Water Conservation Fund Grants

(30 minutes)

Lindon City Parks & Recreation Director, Heath Bateman, and grant consultant, Ron Clegg, will review options for possible grant opportunities available through the Land and Water Conservation Fund. The Council will give direction to the Parks Department to pursue, or not pursue, grant funding for specific park projects.

8. Discussion Item — Transportation Utility Fee Options for Road Maintenance

(45 minutes)

The City Engineer, Noah Gordon, will review options for implementation of a Transportation Utility Fee (TUF) for the Council to consider to help generate dedicated funds for city-wide road maintenance. On December 5, 2017 the City Council discussed the TUF and directed the City Engineer to perform an analysis showing estimated monthly fees for several target properties throughout Lindon. The Engineer will present this analysis and allow the Council to view possible TUF rates based on various funding scenarios. The Council will consider a target funding amount and provide feedback and direction on presenting further information to the public.

9. Public Hearing — Ordinance Amendment, Lindon City Codes 5.42 Residential Facility Business License and 17.70 Group Homes; Ordinance #2018-2-O

(25 minutes)

The City Council will review and consider Ordinance #2018-2-O amending Lindon City Code to conform to current legal standards for processing applications for residential treatment facilities and group homes.

10. Public Hearing — Ordinance Amendment, Lindon City Code 17.14, Noticing; Ord. #2018-3-O

(10 minutes)

The City Council will review and consider Ordinance #2018-3-O amending Lindon City Code to increase noticing distances for mailed notices sent to property owners regarding various land use applications.

11. Public Hearing — FY2017-18 Lindon City Fee Schedule Update; Ordinance #2018-4-O (20 minutes)

The City Council will review and consider Ordinance #2018-4-O amending various fees within the FY2017-18 Lindon City Fee schedule, including adoption of new utility fees for Pressure Irrigation metering and Groundwater pumping, where applicable.

12. Closed Session — Closed Session to Discuss the Sale of Real Property*(20 minutes)*

The City Council will enter into a closed executive session to discuss the potential sale of real property per Utah Code 52-4-205. This session is closed to the general public.

13. Public Hearing — Consideration of Offer on Sale of Real Property; Res #2018-4-R*(15 minutes)*

Lindon City Council will review and consider a new offer to purchase nine acres of surplus real property located at approximately 2100 West 600 South, Lindon (portion of Utah County Parcel ID #17:023:0012). Previously entertained offers and counter offers were not finalized and now void. This is a new offer on the property. The property has been listed for sale by the City since the fall of 2015. The nine acre section of this parcel was officially declared by the City Council as surplus real property through Resolution #2017-15-R.

14. Council Reports:*(20 minutes)*

- | | |
|---|--------------------|
| A) MAG, COG, UIA, Utah Lake Commission, ULCT, NUVAS, IHC Outreach, Budget Committee | - Jeff Acerson |
| B) Public Works, Irrigation/water, City Buildings | - Van Broderick |
| C) Planning, BD of Adjustments, General Plan, Budget Committee | - Matt Bean |
| D) Parks & Recreation, Trails, Tree Board, Cemetery | - Carolyn Lundberg |
| E) Public Safety, Court, Lindon Days, Transfer Station/Solid Waste | - Daril Magleby |
| F) Admin., Community Center, Historic Comm., PG/Lindon Chamber, Budget Committee | - Jacob Hoyt |

15. Administrator's Report*(10 minutes)***Adjourn**

All or a portion of this meeting may be held electronically to allow a council member to participate by video conference or teleconference. Staff Reports and application materials for the agenda items above are available for review at the Lindon City Offices, located at 100 N. State Street, Lindon, UT. For specific questions on agenda items our staff may be contacted directly at (801)785-5043. City Codes and ordinances are available on the City web site found at www.lindoncity.org. The City of Lindon, in compliance with the Americans with Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance. Persons requesting these accommodations for city-sponsored public meetings, services programs or events should call Kathy Moosman at 801-785-5043, giving at least 24 hours notice.

CERTIFICATE OF POSTING:

I certify that the above notice and agenda was posted in three public places within the Lindon City limits and on the State (<http://pmn.utah.gov>) and City (www.lindoncity.org) websites.

Posted by: /s/ Kathryn A. Moosman, City Recorder

Date: January 13, 2017; **Time:** 1:00 p.m.; **Place:** Lindon City Center, Lindon Police Dept., Lindon Community Center

MOBILE TOUR – 6:00 P.M. - Conducting: Mayor Jeff Acerson

I. Tour of New Sewer Lift Station

(60 minutes)

Lindon City Council will meet at the Lindon City Center then drive to Lindon's new sewer lift station for a tour given by Brad Jorgensen, Lindon City Public Works Director. The new lift station is located at approximately 150 N. 1600 W. The Council will then return to the City Center. No motions will be made.

REGULAR SESSION – 7:00 P.M. - Conducting: Jeff Acerson, Mayor

Pledge of Allegiance: By Invitation

Invocation: Jake Hoyt

Item 1 – Call to Order / Roll Call

January 16, 2018 Lindon City Council meeting.

Jeff Acerson
Matt Bean
Van Broderick
Jake Hoyt
Carolyn Lundberg
Daril Magleby

Staff present: _____

Item 2 – Presentations and Announcements

- a) Comments / Announcements from Mayor and Council members.
- b) Character Connection: Kathy Allred will present to the Mayor and City Council the accomplishments and activities that have occurred during the 2017 Lindon Character Connection program.

Item 3 – Approval of Minutes

- Review and approval of City Council minutes: **January 2, 2018**

2 The Lindon City Council held a regularly scheduled meeting on **Tuesday, January 2,**
4 **2018 at 7:00 p.m.** in the Lindon City Center, City Council Chambers, 100 North State
Street, Lindon, Utah.

6 **REGULAR SESSION** – 7:00 P.M.

8 Conducting: Jeff Acerson, Mayor
Pledge of Allegiance: Hyrum
10 Invocation: Jeff Acerson

12 **PRESENT**

Jeff Acerson, Mayor
14 Matt Bean, Councilmember
Van Broderick, Councilmember
16 Jacob Hoyt, Councilmember
Daril Magleby, Councilmember
18 Adam Cowie, City Administrator
Hugh Van Wagenen, Planning Director
20 Kathryn Moosman, City Recorder

EXCUSED

Carolyn Lundberg, Councilmember

- 22 1. **Call to Order/Roll Call** – The meeting was called to order at 7:00 p.m.
- 24 2. **Presentations/Announcements** –
 - 26 a) **Mayor/Council Comments** – There were no announcements at this time.
 - 28 b) **Oath of Office Ceremony:** Recently elected Mayor, Jeff Acerson, and
Councilmember Van Broderick, Councilmember Jacob Hoyt, and
30 Councilmember elect Daril Magleby were sworn-into office. The Oath was
administered by City Recorder, Kathryn Moosman. Mayor Acerson and
32 Councilmember Broderick and Councilmember Hoyt will serve 4-year terms
in office. Councilmember Magleby is serving a 2-year term of office.
- 34 3. **Approval of Minutes** – The minutes of the regular meeting of the City Council
meeting of December 19, 2017 were reviewed.

36 COUNCILMEMBER BRODERICK MOVED TO APPROVE THE MINUTES
OF THE REGULAR CITY COUNCIL MEETING OF DECEMBER 19, 2017 AS
38 PRESENTED. COUNCILMEMBER HOYT SECONDED THE MOTION. THE VOTE
WAS RECORDED AS FOLLOWS:

40 COUNCILMEMBER BEAN	AYE
COUNCILMEMBER HOYT	AYE
42 COUNCILMEMBER BRODERICK	AYE
COUNCILMEMBER MAGLEBY	AYE

44 THE MOTION CARRIED UNANIMOUSLY.

- 46 4. **Consent Agenda** – No items.

2 5. **Open Session for Public Comment** – Mayor Acerson called for any public
comment not listed as an agenda item.

4

Meeting attendee, Randi Powell voiced her opinion on Agenda item #10
(Consideration of Offer on Sale of Real Property). Ms. Powell restated her opinion that
she is opposed to allowing the development of storage units at the Geneva park property.

8

CURRENT BUSINESS

10

6. **Review & Action — Mayor pro tem & Councilmember assignments (Res. #2018-1-R)** This is a request by Mayor Acerson for the Council’s consent to the appointments of the 2018 Mayor pro tem and other Councilmember liaison duties and appointments as assigned by the Mayor, including appointment of all Council members as Board members of the Lindon City Redevelopment Agency (RDA). The Mayor pro tem appointment will rotate quarterly among City Council members as listed in Resolution #2018-1-R.

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Adam Cowie, City Administrator, led this agenda item stating this is a request by Mayor Acerson for the Council’s consent to the appointments of the 2018 Mayor pro tem and other Councilmember liaison duties and appointments as assigned by the Mayor, including appointment of all Council members as Board members of the Lindon City Redevelopment Agency (RDA). He noted the Mayor pro tem appointment will rotate quarterly among City Council members as listed in Resolution #2018-1-R. He then referenced the Resolution for details. He explained this list is put together every year and the Mayor has reviewed it and Daril Magleby has been put in place of Dustin Sweeten’s assignments and Healthy Lindon has been removed.

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Mayor Acerson called for any further comments or discussion from the Council. Hearing none he called for a motion.

30

COUNCILMEMBER BRODERICK MOVED TO APPROVE RESOLUTION #2018-1-R APPROVING CALENDAR YEAR 2018 MAYOR PRO TEM AND COUNCILMEMBER LIAISON ASSIGNMENTS AND APPOINTMENTS TO THE RDA BOARD. COUNCILMEMBER BEAN SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

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36

COUNCILMEMBER BEAN AYE

38

COUNCILMEMBER BRODERICK AYE

COUNCILMEMBER HOYT AYE

COUNCILMEMBER MAGLEBY AYE

40

THE MOTION CARRIED UNANIMOUSLY.

7. **Review & Action — North Pointe Solid Waste Special Service District Appointment (Resolution #2018-2-R).** Lindon City Council will review and consider the recommendation of Mayor Acerson to appoint Councilmember Daril Magleby as the Lindon City voting representative on the North Pointe Solid Waste Special Service District.

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2 Mr. Cowie stated the Lindon City Council will review and consider the
3 recommendation of Mayor Acerson to appoint Councilmember Daril Magleby as the
4 Lindon City voting representative on the North Pointe Solid Waste Special Service
5 District. He then referenced Resolution #2018-2-R outlining the appointment of
6 Councilmember Daril Magleby to the North Pointe Board of Directors to vote on behalf
7 of Lindon City. He noted Daril Magleby is replacing Dustin Sweeten on the Board.

8 Mayor Acerson called for any comments or discussion from the Council. Hearing
9 none he called for a motion.

10
11 COUNCILMEMBER HOYT MOVED TO APPROVE RESOLUTION #2018-2-
12 R APPOINTING COUNCILMEMBER DARIL MAGLEBY TO THE NORTH POINTE
13 SOLID WASTE SPECIAL SERVICE DISTRICT BOARD OF DIRECTORS.
14 COUNCILMEMBER BRODERICK SECONDED THE MOTION. THE VOTE WAS
15 RECORDED AS FOLLOWS:

- 16 COUNCILMEMBER BEAN AYE
- 17 COUNCILMEMBER BRODERICK AYE
- 18 COUNCILMEMBER HOYT AYE
- 19 COUNCILMEMBER MAGLEBY AYE

20 THE MOTION CARRIED UNANIMOUSLY.

21
22 **8. Public Hearing — Development Manual Updates for Pressure Irrigation**
23 **Meters; Ordinance #2018-1-O.** The Council will consider new specifications for
24 installation of Pressure Irrigation meters to be included in the Land Development
25 Policies, Standard Specifications and Drawings (Development Manual).

26
27 COUNCILMEMBER BRODERICK MOVED TO OPEN THE PUBLIC
28 HEARING. COUNCILMEMBER HOYT SECONDED THE MOTION. ALL
29 PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

30
31 Mr. Cowie gave an overview of this agenda item stating the Council will consider
32 new specifications for installation of Pressure Irrigation meters to be included in the Land
33 Development Policies, Standard Specifications and Drawings (Development Manual). He
34 then referenced the materials that are requested by our City Engineers to be adopted by
35 the Council and included in the Development Manual. He noted new subdivisions in the
36 Anderson Farms development (Ivory Homes project) are required by the Development
37 Agreement to install meters on secondary water connections.

38 Mr. Cowie further explained the details and specifications outline the information
39 needed by a contractor so the correct components will be installed and proper
40 connections made. Once piped connections are installed and a meter box is set by the
41 contractor the city Water Division will then install the pressure irrigation meter. All water
42 meters (both culinary and secondary) are installed only by City employees to ensure
43 proper installation and that no tampering has occurred. The base rate and usage fees for
44 the pressure irrigation metering and the ground water pumping system in the Anderson
45 Farms Development are being finalized by the City Engineers. He noted staff anticipates
46 these recommended fees will be brought forward to the Council soon for review and

2 adoption. He pointed out the Development Manual contains all the submittal
4 requirements, construction specifications and plan details that are required for
development plans and project improvements in Lindon.

The information from City Engineer Noah Gordon was presented as follows:

- 6 • 18 - SINGLE SERVICE CONNECTION FOR PRESSURE IRRIGATION
- 18a - DOUBLE SERVICE CONNECTION FOR PRESSURE IRRIGATION
- 8 • 19 - METER AND LINESETTER DETAIL FOR PRESSURE IRRIGATION

10 **Reason for change to detail(s)**

The details have added a meter for pressure irrigation. Previously, Lindon City has not
12 metered pressure irrigation use due primarily because the meters used for potable
(culinary) water were not suitable for metering “dirty” pressure irrigation water.

14 Advances in technology have now made it possible for cost effective metering of
pressure irrigation. The Anderson Farms development is the only area of the City that is
16 presently planned for the pressure irrigation system to be metered, but it is anticipated
that the State will eventually require that all pressure irrigation use be metered, similar to
18 how it is currently required for culinary use, in order to promote water conservation. The
proposed detail, therefore, will be used for all new installations, but in areas outside of
20 the Anderson Farms development a “jumper” will be installed in place of the meter.

22 **Reason that detail(s) need to be adopted by City Council**

The State’s Land Use, Development, and Management Act (LUDMA) has recently
24 redefined portions of what constitutes a “Land use regulation” to include specifications
that govern the use or development of land (section 10-9a-103) and that “Only a
26 legislative body may enact a land use regulation” and this may only be done by ordinance
(section 10-9a-501). (Copies of these portions of the State Code are found below.)

28 Therefore, while in the past changes to the City’s standards, specifications, and
associated standard drawings were able to be approved by the DRC, they must now be
30 approved by the City Council.

32 *Mr. Gordon referenced the applicable State Code Sections as follows:* (Effective
5/9/2017)

34 10-9a-103. Definitions.

As used in this chapter:

36 (29) "Land use regulation":

a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
38 governs the use or development of land; and

b) does not include:

40 (i) a general plan;

(ii) a land use decision of the legislative body acting as the land use authority,
42 even if the decision is expressed in a resolution or ordinance; or

(iii) a temporary revision to an engineering specification that does not
44 materially:

(A) increase a land use applicant's cost of development compared to the
46 existing specification; or

- 2 (B) impact a land use applicant's use of land.
Effective 5/9/2017
- 4 10-9a-501. Enactment of land use regulation.
 - 1. Only a legislative body may enact a land use regulation.
 - 6 2. (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.
 - 8 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.
 - 10 3. A land use regulation shall be consistent with the purposes set forth in this chapter.

12 **Financial Impact**

14 It is estimated that the proposed changes to the PI service standard will increase the cost for each PI service by approximately \$300, as follows:
 16 \$150 = developer cost (setter, fittings, etc.)
 \$150 = City cost (meter, radio, etc.)

18 Mr. Gordon stated it should be noted that the City’s cost will only be incurred for those services where a meter is installed (i.e. Anderson Farms development for now).
 20 The City does not currently charge a hookup fee for PI. He stated the City Council may want to consider charging a hookup fee, especially for those areas where meters are to be installed to cover the cost of the meter, installation labor, and administrative costs. There was then some general discussion by the council regarding the information presented.

24 Mayor Acerson called for any public comments. Hearing none he called for a motion to close the public hearing.

26
 28 COUNCILMEMBER BRODERICK MOVED TO CLOSE THE PUBLIC HEARING. COUNCILMEMBER BEAN SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

30
 32 Mayor Acerson called for any comments or discussion from the Council. Hearing none he called for a motion.

34 COUNCILMEMBER BRODERICK MOVED TO APPROVE THE ADDITION OF THE SPECIFICATIONS AND STANDARD DRAWINGS FOR INSTALLATION OF PRESSURE IRRIGATION METERS FOR THE SECONDARY WATER SYSTEM AS PRESENTED. COUNCILMEMBER MAGLEBY SECONDED THE MOTION.

38 THE VOTE WAS RECORDED AS FOLLOWS:

- 40 COUNCILMEMBER BEAN AYE
- COUNCILMEMBER BRODERICK AYE
- COUNCILMEMBER HOYT AYE
- 42 COUNCILMEMBER MAGLEBY AYE

THE MOTION CARRIED UNANIMOUSLY.

- 44
- 46 9. **Closed Session — Closed Session to Discuss the Sale of Real Property.** The City Council will enter into a closed executive session to discuss the potential sale

2 of real property per Utah Code 52-4-205. This session is closed to the general
public.

4

COUNCILMEMBER HOYT MADE A MOTION TO MOVE INTO A CLOSED
6 SESSION FOR THE PURPOSE OF DISCUSSING THE POTENTIAL SALE OF REAL
PROPERTY PER UTAH CODE 52-4-205. COUNCILMEMBER BEAN
8 SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

COUNCILMEMBER BEAN AYE
10 COUNCILMEMBER BRODERICK AYE
COUNCILMEMBER HOYT AYE
12 COUNCILMEMBER MAGLEBY AYE

THE MOTION CARRIED UNANIMOUSLY WITH ONE ABSENT.

14

COUNCILMEMBER MAGLEBY MADE A MOTION TO CLOSE THE
16 CLOSED EXECUTIVE SESSION AND MOVE INTO THE REGULAR SESSION.
COUNCILMEMBER BRODERICK SECONDED THE MOTION. ALL PRESENT
18 VOTED IN FAVOR. THE MOTION CARRIED WITH ONE ABSENT.

20 **10. Public Hearing — Consideration of Offer on Sale of Real Property;**

Resolution #2018-3-R. Lindon City Council will review and consider an offer
22 received on nine acres of surplus real property located at approximately 2100
West 600 South, Lindon (portion of Utah County Parcel ID #17:023:0012). The
24 property has been listed for sale by the City since the fall of 2015. The nine-acre
section of this parcel was officially declared by the City Council as surplus real
26 property through Resolution #2017-15-R.

28 COUNCILMEMBER HOYT MOVED TO OPEN THE PUBLIC HEARING.
COUNCILMEMBER BEAN SECONDED THE MOTION. ALL PRESENT VOTED IN
30 FAVOR. THE MOTION CARRIED.

32 Mr. Cowie gave an overview of this agenda item stating the City Council will
accept public comment on and consider an offer received from “Garlington Development
34 LLC and/or assigns” for purchase of real property owned by the City and declared as
surplus in June of 2017. The listed asking price on the nine-acre parcel is \$4.75 per
36 square foot. The buyers offering price is \$1,822,986 as calculated at \$4.65 / sq. ft. of
deeded land, and will be further verified by an A.L.T.A. survey and net of any
38 jurisdictional wetlands. He noted Jared Hunt, Realtor, is participating through a
conference call for this item to answer any questions.

40 Mr. Cowie explained the purchase offer is also conditioned upon the City
Council’s review of a proposed site plan and changing the zoning of the parcel to Light
42 Industrial. The buyers have indicated preliminary intent to build storage units on the
property. He noted background information and dates of some more recent public
44 meetings and public hearings regarding the disposal of this property is outlined in the
Resolution #2018-3-R. He pointed out the City Council has already declared the land as

2 surplus real property and, having an offer near the listing price in hand, is now ready to
3 accept public comment on the offer and sale.

4 Following some general discussion, the majority of the Council reaffirmed that
5 they felt selling the east 9 acres of the property was still in the best interest of the city.
6 Mr. Cowie made note that the property be divided by deed or other instrument because it
7 is anticipated that the property could be developed or subdivided further.

8 Mayor Acerson called for any public comments. Hearing none he called for a
9 motion to close the public hearing.

10 COUNCILMEMBER HOYT MOVED TO CLOSE THE PUBLIC HEARING.
11 COUNCILMEMBER BRODERICK SECONDED THE MOTION. ALL PRESENT
12 VOTED IN FAVOR. THE MOTION CARRIED.

13 Mayor Acerson called for any further comments or discussion from the Council.
14 Hearing none he called for a motion.

15 COUNCILMEMBER HOYT MOVED TO APPROVE RESOLUTION 2018-3-R
16 PROPOSING A COUNTER OFFER ON THE PURCHASE OFFER BY
17 GARLINGTON DEVELOPMENT LLC WITH THE FOLLOWING
18 CHANGES:1.THAT THE SETTLEMENT DEADLINE BE CHANGED TO JUNE 1,
19 2018 AND 2. THE ERNEST MONEY DEPOSIT BE INCREASED TO \$75,000 AND
20 3. THE NON REFUNDABLE DEADLINES BEING SET AT MARCH 1ST FOR THE
21 FIRST \$25K , APRIL 1ST AN ADDITIONAL \$25K AND AGAIN ON MAY 1ST WITH
22 THE CLOSING ON JUNE 1ST AND 3. THAT THE PROPERTY BE DIVIDED BY
23 DEED OR OTHER INSTRUMENT BECAUSE IT IS ANTICIPATED THAT THE
24 PROPERTY COULD BE DEVELOPED OR SUBDIVIDED FURTHER.

25 COUNCILMEMBER BRODERICK SECONDED THE MOTION. THE VOTE WAS
26 RECORDED AS FOLLOWS:

27 COUNCILMEMBER BEAN AYE
28 COUNCILMEMBER BRODERICK AYE
29 COUNCILMEMBER HOYT AYE
30 COUNCILMEMBER MAGLEBY NAY

31 THE MOTION CARRIED THREE TO ONE.

32 Councilmember Magleby explained his nay vote stating he feels he doesn't have
33 enough information to make a decision to go forward. He stated he feels holding on to the
34 land for a longer period of time would pay off in the future with increased land values
35 over time. He understands the motive of the sale is to reduce the debt on the Public Safety
36 Building and it was a good goal, but not something that should be driving the sale of the
37 land at this time and he feels it is not in the best interest of the city.

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41 **COUNCIL REPORTS:**

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43 **Councilmember Hoyt** – Councilmember Hoyt had nothing to report at this time.

44
45
46

2 **Councilmember Broderick** – Councilmember Broderick reported on some property to
 4 watch and be aware of located at 4th North and 200 East in case the city is interested in
 expanding the park located by the property. Mr. Cowie suggested having this an agenda
 6 item to review the parks master plan; maybe at the retreat. He also reported the employee
 Christmas party was fun and well attended and he thanked staff and all employees for all
 their hard work.

8
 10 **Councilmember Bean** – Councilmember Bean reported he appreciates Chief Adams for
 obtaining the grants. He also thanked the Police Department for all their efforts. He also
 12 reported Bob Wily may be leaving the Planning Commission as he has made an offer on
 a home outside of Lindon.

14 **Councilmember Lundberg** – Councilmember Lundberg was absent from the meeting.

16 **Councilmember Magleby**– Councilmember Magleby reported he received an email
 18 about the money awarded to the Police Department where the program is seeking a 50/50
 match for the vests. He then asked Chief Adams to speak on the grant. Chief Adams
 20 pointed out they currently have great equipment but they are now ahead of the curve. He
 noted the State Dept. of Alcohol gave grants to get good camera systems which is a hot
 22 issue all over the country. He pointed out the body worn camera system money will help
 offset costs and buy better dash cam systems which will be much more efficient.
 24 Councilmember Magleby also reported he had the opportunity to tour all city facilities
 with Mr. Cowie which was beneficial.

26 **Mayor Acerson** – Mayor Acerson reported he has received some emails on animal issues
 at the shelter. He noted the director handles his job very well at the animal shelter.

28
 30 11. **Administrator’s Report:** Mr. Cowie reported on the following items followed by
 discussion.

32 **Misc. Updates:**

- 34 • December newsletter
- 34 • January newsletter article: Carolyn Lundberg - Article due to Kathy Moosman
 last week in December
- 36 • Elected officials training – January 6th at ULGT office in North Salt Lake
- 38 • Misc. Items

40 **Upcoming Meetings & Events:**

- 40 • Dec 25th – 26th – City offices closed for Christmas Holiday
- 42 • January 1st – City offices closed for New Years
- 42 • January 2nd 7:00 pm – Swearing-in of elected officials at regularly scheduled
 Council meeting
- 44 • January 16th at 6:00 pm – tour of new sewer lift station (prior to Council meeting)
- January 24th – Christmas tree curb-side pick-up. Dumpster will also be available

2 at the Aquatics Center Parking lot from Jan 3rd through end of the month (for
trees only! No garbage).

- 4 • Received offer on basement. They have requested some minor renovations.

6 Mayor Acerson called for any further comments or discussion from the Council.
Hearing none he called for a motion to adjourn.

8

Adjourn –

10

COUNCILMEMBER BRODERICK MOVED TO ADJOURN THE MEETING
12 AT 8:25 PM. COUNCILMEMBER HOYT SECONDED THE MOTION. ALL
PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

14

Approved – January 16, 2018

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18

Kathryn Moosman, City Recorder

20

22

Jeff Acerson, Mayor

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Item 4 – Consent Agenda – *(Consent agenda items are only those which have been discussed beforehand and do not require further discussion)*

- No Items.

Item 5 – Open Session for Public Comment *(For items not on the agenda - 10 minutes)*

6. Review & Action — Lease Agreement for City Center basement office space (10 minutes)

The City Council will review and consider a 5-year office lease agreement between Lindon City and Inter Vivos, PLLC – Law Firm. The office space was previously occupied by the Lindon City Police Department and vacated in early 2017. The City does not anticipate need for the office space during the term of the lease.

See attached DRAFT lease agreement for details of the pending lease agreement for the basement office area at the City Center. Final details of the agreement are still being negotiated with the future tenant. Staff is hopeful a finalized agreement can be presented at the Council meeting.

Total construction/remodel costs and payment of listing agent/realtor fees are estimated to be between \$14k to \$15k (Realtor fees alone is estimated at \$8,830 or 6% of total transaction value). Total anticipated rental income over the 5 yr lease expected to be approximately \$147,169 annually or \$2,310 per month (based on current DRAFT agreement), therefore taking about 6 ½ months to break even on expenses for remodeling and realtors fees. The tenant is anticipating occupancy starting in April 2018.

Sample Motion: I move to (approve, continue, deny) the Office Lease agreement between Lindon City and Inter Vivos, PLLC law firm for lease of the basement offices at the City Center building.

Office Lease

THIS LEASE AGREEMENT made this _____ day of January, 2018, between Lindon City, a Municipal Corporation of the State of Utah ("Owner"), and _____ ("Tenant");

LEASE OF PREMISES

The Owner hereby leases to the Tenant and the Tenant hereby rents from the Owner, subject to the terms and provisions of this Lease, including the General Provisions hereafter set forth and the Exhibits hereafter identified and attached hereto, that certain office building located at 100 North State Street Lindon, Utah 84042 consisting of approximately 2,640 square feet.

BASIC LEASE PROVISIONS

1. Building Name: Lindon City Center
2. Premises Address: 100 North State Street Lindon, UT 84042
3. Use of Premises: Office
4. Building Rentable Area: N/A
5. Rentable Area of Premises: 2,640 Square Feet
6. Initial Term: 60 Months (5) years.
7. Commencement Date: April 1st 2018
8. Option(s) to Renew: N/A (may be possible for re-negotiation for extended use prior to end of current lease)
9. Annual Base Rent: \$ 27,720
10. Monthly Rent Installments: \$ 2,310
11. Rent Adjustment: 3% Annually. See Exhibit E
12. Security Deposit: \$ 2,310
13. Owner's Address for Payment of Rent and Delivery of Notices:
Lindon City Corp.
100 N. State Street
Lindon, UT 84042
14. Tenant's Address for Delivery of Notices:

Exhibits Attached: Exhibit A (Description of Premises with Building and Premises Measurements); Exhibit B (Construction); Exhibit C (Option(s) to Renew); Exhibit E (Adjustment of Annual Base Rent – 3% Annual Adjustment); Exhibit F (Required Additional Insured's); Exhibit G (Signage Location & Code Requirements); Exhibit H (Agreement of Personal Guaranty)

IN WITNESS WHEREOF, the parties have executed this Lease, consisting of the foregoing provisions and the General Provisions and Exhibits attached, as of the date first above written.

OWNER:

TENANT:

By: _____

By: _____

Its: _____

Its: _____

GENERAL PROVISIONS

I. PREMISES AND COMMON AREAS

- a. **Premises.** The entire building, common areas, and parking areas located at 100 North State Street, Lindon, Utah 84042.
- b. **Common Areas.** Subject to reasonable non-discriminatory rules from time to time made by the Owner and delivered to the Tenant, the Tenant shall have the exclusive right to use common areas:
 - (a) **Building Common Area.** The common access ways and passageways and the common pipes, ducts, conduits, wires and appurtenant equipment serving the Premises.
 - (b) **Land Common Area.** Common walkways, interior and exterior window surfaces, sidewalks and driveways necessary for access to the Building, landscaping and the parking lot appurtenant to the Building.

1.03. **Parking.** The Tenant and its employees, customers and invitees shall be entitled to the use of public parking within the common parking areas around the Lindon City Center building. Should the Tenant desire, three parking spaces within the northeast side parking lot area will be reserved for Tenant use only with exact parking stall location determined and by Owner. Signage in front of reserved stalls will be designed and installed by Owner with the cost of actual signage materials and installation paid by the Tenant.

II. TERM

2.01. **Initial Term.** The initial term (5 years) of this Lease as set forth in the Basic Lease Provisions shall commence on the Commencement Date (April 1, 2018) specified in the Basic Lease.

2.02. **Option(s) to Renew.** If an option(s) to renew the term of this Lease is indicated in the Basic Lease Provisions, the Tenant shall have the option(s) to renew the term of this Lease for the renewal period(s) so indicated. Each such renewal period to commence immediately following the expiration of the current term and to be upon the terms, conditions, covenants and provisions set forth on "Exhibit D" attached hereto and made a part hereof.

III. RENT

3.01. **Security Deposit.** \$ \$2,310. Tenant shall pay the Security Deposit with the first month's rent on or before the commencement date of April 1, 2018. The Security Deposit will be deposited by the Owner and held until after the end of the Initial Term (60 months). The Security Deposit money will be used by the Owner to cover costs of any repairs for damage made to Premises that is beyond typical or reasonable wear including, but not limited to: drywall dings or holes in drywall; scuffs and scratches on walls, doors, moldings, painted surfaces, ceiling tiles, cabinetry, or counter tops; stains or tears on carpeting that were not pre-existing; damage to flooring, wall, or ceiling coverings; damage to windows or window frames/sill; damage to plumbing or plumbing fixtures; damage to electrical fixtures, outlets, and switches; and any other damages to interior floors, walls, ceilings, or fixtures within the premises. Any remaining Security Deposit funds will be returned to the Tenant with an itemized list of repair costs. Tenant agrees to cover costs of damage repairs that may exceed the Security

Deposit amount per section VII of this lease agreement.

3.02. **Rent.** The Tenant shall pay to the Owner, without deduction or off-set, the annual rent (hereafter "Annual Base Rent") for the Premises specified in the Basic Lease Provisions, in equal monthly installments on the first (1st) day of each calendar month, in advance, commencing on the date set forth in the Basic Lease Provisions (April 1, 2018). Base Rent for any period less than a full calendar month shall be pro-rated on a per diem basis calculated on a thirty (30) day month. The Annual Base Rent shall be escalated annually as provided in "Exhibit E" attached hereto and made a part hereof.

3.03. **Building Operating Expenses.** The Landlord is responsible for all property taxes, insurance, structural repairs, HVAC maintenance and repairs, roof maintenance and repairs, electricity, gas, common area maintenance and repairs, parking lot maintenance and repairs, snow removal, grounds keeping, water, sewer, and trash removal from dumpsters.

- (a) The Landlord shall keep or cause to be kept the exterior Common Areas in a neat, clean, and orderly condition, properly lighted and landscaped, and shall repair any damages to the facilities thereof, but all expenses in connection with said Common Areas shall be paid by Landlord. It is understood and agreed that the phrase "expenses in connection with said Common Areas" as used herein shall be construed to include, but not be limited to, all sums expended for and in connection with real and personal property taxes; water and sewer charges; insurance premiums; electricity, gas and other utility services used for the exterior Common Areas; exterior lighting; janitorial, maintenance, trash removal, and repair with respect to the exterior of the Building; maintenance and repair of the roof; general maintenance, repair and replacement of the components, facilities and improvements in the Common Areas; landscaping maintenance and replacement; parking lot maintenance, upkeep, repair, seal-coating, resurfacing, policing, sweeping and cleaning, painting, restriping, snow removal and ice treatment.
- (b) The Tenant shall have the right during the term of this Lease to use the Common Areas for itself, its employees, agents, customers, invitees and licensees.

3.04. **Late Charges.** The Tenant acknowledges that the late payment of rent to the Owner will cause the Owner to incur costs not contemplated by this Lease, the exact amount of which the Owner is not capable of determining. Accordingly, if the Owner shall not receive any monthly installment of the rent within ten (10) days after its due date, the Tenant shall pay to the Owner a late charge equal to ten percent (10%) of such overdue rent. Further, and in addition to any late charges, any sums (including rent) payable by the Tenant to the Owner under the terms of this Lease which shall be past due for a period of thirty (30) or more days, shall bear interest from the due date at the rate of eighteen percent (18%) per annum. Acceptance of a late charge by the Owner or interest on overdue amounts shall not constitute a waiver of the Tenant's default with respect to such overdue amount nor prevent the Owner from exercising any other rights or remedies granted hereunder. No payment by the Tenant of an amount less than that then due shall be deemed or construed other than a part payment on account of the most recent rent due nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

3.05. **Place of Payment.** Until otherwise directed by the Owner in writing, the Tenant shall deliver all notices and pay all Annual Base Rent and other amounts due under this Lease to the Owner at the address for the Owner set forth in the Basic Lease Provisions.

3.06. **Commercial Lease Guarantee.** Tenant shall sign a Commercial Lease Guaranty (attached as Exhibit H) unconditionally guaranteeing the payment of the rent by the Tenant to the Owner and guaranteeing the performance by the Tenant of all the duties and obligations per the Terms of this Lease Agreement.

IV. USE OF PREMISES

4.01. **Use.** Tenant has disclosed intended use of the Premises as an office for attorneys/staff and their clients. Any different use by the Tenant shall first require the prior written consent of the Owner. The Tenant acknowledges and agrees that

the Owner may withhold consent to such different use, and such shall not be unreasonable, if it would (i) violate any restriction or exclusive right granted to another tenant or occupant of the Building, or entitle another such other tenant or occupant to reduce its rent or terminate its lease, (ii) be in breach of any restrictions applicable to the Building, (iii) involve the storage, use or disposal of any material or substance which is then classified as "hazardous" or "toxic" by any law or regulation, (iv) adversely affect the current or future operations within the Building or adversely affect the reputation or image of the Building, as reasonably determined by the Owner, or (v) require the Owner to perform any alterations to the Premises or the Building by reason of any applicable law, code or regulation unless Tenant agrees to pay for such alterations. The Tenant's use of the Premises shall be in full compliance with all statutes, ordinances, laws, rules, regulations and restrictive covenants applicable to the Premises, and in a manner, which shall not result in a nuisance to or unnecessary disturbance of other tenants of Building. The Tenant shall comply with all rules and regulations relating to Tenant's specific use of the National Fire Protection Association, the applicable Fire Rating Bureau and any similar body. The Tenant shall not maintain any item or do anything in or about the Premises, which would cause the increase of insurance rates or make such insurance unobtainable.

4.02. **Disposal of Refuse.** The Tenant shall not dump, dispose, reduce or incinerate or cause other burning of any trash, papers, refuse or garbage of any kind in or about the Premises. The Tenant shall store all trash and garbage within the Premises or in an area designated as appropriate therefore by the Owner.

4.03. **Improvements.** Unless otherwise expressly provided in this Lease Agreement, all improvements to the Premises required to make the Premises suitable for the Tenant shall be at the Tenant's cost and expense thereof.

4.04. **No Smoking Building.** The Tenant acknowledges that the Building has been designated by the Owner as a "No Smoking" Building and the Tenant agrees to timely enforce such restriction with respect to its employees, contractors, agents, invitees and licensees who occupy the Premises.

4.05. **Re-Keying of Premises.** Prior to re-keying of any door locks within the Premises, the Tenant shall obtain the consent of the Owner and any such re-keying by the Tenant shall be in conformity with the Owner's master key system (hereafter "Master Key System"), and if such re-keying by the Tenant requires modifications in the Master Key System, the Tenant shall pay all costs to modify the same.

4.06. **No Storage Outside of Office Premises.** The Tenant shall not store any supplies, equipment, trash, papers, boxes, furnishings, or other items within Common Areas or in mechanical areas or at the bottom of exterior stairwells or other areas on the exterior of the building or parking lots. All such materials shall be kept within the office premises of the Tenant.

V. UTILITIES AND SERVICES

5.01. **Owner's Obligations.** The Owner shall be responsible to provide sewer, water, and electric utilities to the leased office space, and shall responsible for providing all utilities and services with respect to the Common Areas, the landscaping and the parking areas and sidewalks, and the removal of trash from the dumpster. Owner shall provide janitorial services to the Common Areas (entryway, lobby, restrooms).

5.01a. **Snow Removal.** Snow removal by Owner on Saturday and Sundays will only occur if snow accumulation is over one inch (1"). Snow will be removed by owner as soon as reasonably possible during other snowstorms.

5.01b. **Garbage Disposal & Recycling.** Owner shall allow access to commercial dumpsters available to Tenant for solid waste disposal of typical office trash/garbage. Tenant may use dumpster located east of building behind Lindon Parks Dept. garage or dumpster in parking lot east of the Public Safety Building for trash disposal. Tenant may have reasonable use of the shared Recycling bin located outside the lower level of the Premises and may obtain additional Recycling bins at their own cost.

5.02. **Tenant's Obligations.** The Tenant shall be responsible to provide/obtain/maintain their own internet, phone, fax, and other telecommunication services and security systems if desired and shall obtain/perform its own IT services for such

systems and services. Said telecommunication services shall in no way cause disruption or interference with current or future telecommunication services operated and maintained by the Owner. Tenant shall perform and/or obtain its own janitorial services for premises not part of the Common Area, including garbage removal from premises to provided dumpsters.

VI. INSURANCE

6.01. **Tenant's Obligations.** During the term of this Lease, the Tenant shall carry and maintain, at the Tenant's sole cost and expense, the following types of insurance, in the amounts specified and in the form hereafter provided:

- (a) **Public Liability and Property Damage.** Bodily injury liability insurance with limits of not less than \$1,000,000.00 per person and \$1,000,000.00 per occurrence insuring against any and all liability of the insured(s) with respect to the Premises and the other portions of the Building used or useable by the Tenant, its employees, agents, contractors, customers, invitees and licensees, or arising out of or relating to the maintenance, use and occupancy thereof, and property damage liability insurance with a limit of not less than \$500,000.00 per accident or occurrence. All such bodily injury liability insurance and property damage liability insurance shall specifically insure the performance by the Tenant of the indemnity agreement(s) contained in this Lease as to liability for injury to or death of person and injury or damage to property and shall name the Owner and those other persons and entities named on "Exhibit F" attached hereto and made a part hereof as additional insured's there under. Notwithstanding anything to the contrary contained herein, the Owner agrees that the Tenant shall be allowed to insure the Premises under a blanket policy of insurance coverage covering the Premises and other locations leased or owned by the Tenant.

6.02. **Owner's Obligation.** The Owner shall purchase and keep in force a policy(s) of insurance covering the Building in an amount not less than ninety percent (90%) of the full replacement cost (exclusive of the cost of excavations, foundations and footings), providing protection against any peril generally included within the classification "fire and extended coverage," or, at the Owner's election, "all-risk coverage," including earthquake coverage and/or ordinance or law coverage, if elected by the Owner. The insurance provided for in this Section may be brought within the coverage of a blanket policy(s) of insurance carried and maintained by the Owner.

6.03. **Policy Form.** All policies of insurance provided for herein shall be issued by insurance companies with a general policyholder's rating of not less than A and a financial rating of AAA (or equivalent ratings if such are changed) as rated in the most current available "Best's Insurance Reports" and qualified to do business in the State of Utah, "provided, however, that if such becomes commercially unreasonable, Tenant may choose an insurer whose ratings and insurance rates are commercially reasonable". Executed copies of the policies of insurance to be provided by the Tenant, or certificates thereof, shall be delivered to the Owner within ten (10) days after the Commencement Date of the Initial Term of this Lease and thereafter within thirty (30) days prior to the expiration of the term of each policy. All public liability and property damage policies shall contain a provision that the Owner, although named as an additional insured, shall nevertheless be entitled to recover under such policies for any loss occasioned by it, or its partners, employees and agents. When any such policy shall expire or terminate, a like renewal or additional policy shall be purchased and maintained by the Tenant. All policies of insurance delivered to the Owner shall contain a provision that the insurer shall give to the Owner twenty (20) days prior notice in writing of any cancellation or lapse or of any reduction in the amounts of insurance. All public liability, property damage and other casualty policies required of the Tenant, shall be written as primary policies, not contributing with and not in excess of coverage which the Owner may carry.

6.04. **Adjustment of Coverage.** Not more frequently than every three (3) years during the term of this Lease if, in the reasonable opinion of the Owner based on industry and local standards, the amount of public liability and property damage insurance required to be carried and maintained by the Tenant is at the time not adequate, the Tenant shall increase insurance coverage as reasonably determined by the Owner to be adequate.

6.05. **Failure of Tenant to Insure.** In the event the Tenant shall fail to purchase and keep in force any of the insurance required of the Tenant in this Article, the Owner may, but shall not be required to, purchase and keep in force the same, in which event the Tenant shall pay to the Owner the full amount of the Owner's expense with respect thereto, said payment to be made within ten (10) days after demand for such payment by the Owner. The election by the Owner to purchase said insurance on behalf of the Tenant shall not constitute a curing of the default occasioned by the Tenant's failure nor be an election of remedies otherwise available to the Owner.

VII. MAINTENANCE AND REPAIR OF PREMISES

7.01. **Owner's Obligation.** The Owner shall, at the Owner's cost, be responsible for any structural repairs to the Premises and maintaining, repairing and/or replacement of materials in Common Areas and utility services including mechanical equipment necessary to service the Premises and identified as water, sewer, electricity, and gas and HVAC systems. Owner may at its discretion remodel, repair, and perform maintenance work on the premises and in Common Areas as needed, with 24-hour notice given to Tenant prior to activities that may be disruptive to an office setting (carpet cleaning, structural repairs, remodeling, etc.). Owner is under no obligation to reduce or discount monthly rental rates during any such disruptive maintenance, repair or remodeling activities.

7.02. **Tenant's Obligation.** The Tenant shall at all times keep the Premises in good order, condition and repair. The Tenant's duty to maintain includes, but is not limited to, the maintaining, repairing and/or replacement, if required, of all portions of the Premises not to be maintained by the Owner as provided above, maintaining the good order, condition and repair of the interior of the entrances, the doors and windows; interior walls; all fixtures, equipment, lighting and electrical and plumbing facilities and fixtures; floor coverings, ceilings and all other interior portions of the Premises; Tenant's signs and displays on the exterior of the Premises; and shall keep all sidewalks and services areas which are adjacent to the Premises clear of rubbish, boxes, containers, storage items, etc. Any repairs or replacements made by the Tenant hereunder shall be of like or better quality than existed at the Commencement Date of the Initial Term of this Lease. Tenant shall install plastic floor coverings at any desk or counter area where wheeled office chairs will be used in order to protect carpet from excessive wear.

7.03. **Failure to Repair.** If the Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to the Owner, the Owner shall have the right, upon giving the Tenant reasonable written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of the Tenant. In such event, such work shall be paid for by the Tenant and shall be due promptly upon receipt of a bill therefore. No reasonable exercise by the Owner of any rights herein reserved shall entitle the Tenant to any damage for any injury or inconvenience occasioned thereby.

VIII. INDEMNITY

8.01. **By Tenant.** The Tenant agrees to indemnify and hold the Owner harmless against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including attorneys' fees and costs of defense, which may be brought or made against the Owner, or which the Owner may pay or incur, by reason of the Tenant's use and occupancy of the Premises or the Tenant's failure to perform its obligations under this Lease.

8.02. **By Owner.** The Owner agrees to indemnify and hold the Tenant harmless against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including attorneys' fees and costs of defense, which may be brought or made against the Tenant, or which the Tenant may pay or incur, by reason of the Owner's failure to perform its obligations under this Lease.

8.03. **Non-Liability of Owner.** Notwithstanding any provision in this Lease to the contrary, the Owner shall not be liable for any damage to or loss, by theft or otherwise, of property of the Tenant or of others located on the Premises. The Owner shall not be liable for injuries or damage to property resulting from fire, explosion, sprinklers, falling plaster, steam, gas, electricity, water, rain, snow or leaks from the pipes, appliances, plumbing, street or subsurface, or from any other place or from

dampness. The Tenant assumes the risk of all property kept or stored on the Premises and shall hold the Owner harmless from any claims arising out of damage to the same. The Tenant shall give immediate notice to the Owner in case of fire or accidents on or in the Premises or the Building. Notwithstanding the foregoing, Owner acknowledges and agrees that this non-liability provision shall not apply to any loss, damage or injury caused by the negligence or willful misconduct of the Owner, its agents, employees or contractors.

IX. ALTERATIONS

9.01. **Consent Required.** The Tenant shall make no alterations, improvements or additions ("Improvements") in or about the Premises without the prior written approval of the Owner. All approved Improvements shall be performed at the sole cost of the Tenant in compliance with all applicable statutes, ordinances, codes and regulations. Upon expiration of the term of this Lease, the Improvements shall be considered a part of the Premises and remain therein unless the Owner shall request their removal, in which event the Improvements shall be promptly removed by the Tenant and the Premises restored to substantially the condition existing prior to such Improvements. The granting of the consent by the Owner as provided herein shall not constitute the appointment of the Tenant as the agent of the Owner with respect to the approved Improvements. The Tenant shall timely perform, at the Tenant's sole cost, in a good workmanlike manner, all alterations and/or repairs to the Premises required by any federal, state or local building, fire, life-safety or similar law, ordinance, code or regulation adopted or amended after the Commencement Date of this Lease and applicable to the Premises, or required by reason of any alteration to the Premises performed by the Tenant or a change in the Tenant's use of the Premises, even though such alteration(s) and/or change in use may be consented to by the Owner.

9.02. **Trade Fixtures.** Trade fixtures, equipment and other personal property which are installed in the Premises by the Tenant and are not permanently affixed to the walls, ceilings, floors or other part thereof shall remain the property of the Tenant and, providing the Tenant is not in default under this Lease, they may be removed by the Tenant at any time during the term of this Lease provided that the Tenant promptly repairs all damage resulting from the installation or removal and fully restores the Premises. Notwithstanding the method of attachment to the Premises, and so long as Tenant repairs any damage occasioned by their removal.

9.03. **Liens Prohibited.** The Tenant shall pay all costs for the work done by or for Tenant on the Premises and the Tenant shall keep the Premises and the Building free and clear of all liens of whatever kind or nature relating to the Tenant's use of or alteration to the Premises. The Tenant shall indemnify, save and hold the Owner and the Building harmless against any liability, loss, damage, cost, attorneys' fees and all other expenses on account of any prohibited lien.

X. DESTRUCTION OF PREMISES

10.01. **Fully Tenantable.** If the Premises are damaged by fire or other casualty, but are not thereby rendered untenable, in whole or in part, the Owner shall, at its own expense, cause such damage to be repaired and neither the Annual Base Rent nor other amounts payable by the Tenant under this Lease shall be abated.

10.02. **Partially Untenable.** If the Premises shall be rendered partially untenable by reason of such occurrence, the Owner shall, at its own expense, cause the damage to be repaired and the Annual Base Rent for the part of the Premises rendered untenable shall be abated proportionately on a square footage basis as long as said part remains untenable. As used herein, "untenable" shall mean that the Tenant, in its reasonable discretion, determines that it is unable to use the Premises for the purposes leased for a period of five (5) or more consecutive days.

10.03. **Totally Untenable.** If the Premises shall be rendered wholly untenable by reason of such occurrence, the Owner shall, at its own expense, cause such damage to be repaired and the Annual Base Rent meanwhile shall be abated.

XI. EMINENT DOMAIN

11.01. **Definition of Taking.** If the Premises are acquired or damaged by the exercise of the right of eminent domain or by the change of grade of adjacent street(s) or other activity by a public authority, whether or not such damage involves a physical taking of any portion of the Premises, this shall be considered a taking. If the extent of the taking is such that the Premises are no longer suitable for the purpose of the tenancy, this shall be considered a total taking. Any other taking shall be considered a partial taking. A taking of any portion of the Common Areas shall not constitute a taking for the purposes of this Article, unless such results in the Premises being no longer suitable for the purpose of the Tenant's tenancy.

11.02. **Total Taking.** In the case of a total taking, this Lease shall terminate at the date the Premises are rendered unsuitable for the purposes of the tenancy and all compensation therefore, whether fixed by agreement or judicial award, shall belong to the Owner except those portions of the award that are specifically allocated as compensation for actual expenses incurred by the Tenant for moving the Tenant's fixtures, stock in trade and inventory and as compensation for the taking of the Tenant's fixtures and leasehold improvements which shall belong to the Tenant and which Tenant has a right to remove at the expiration of the term of this Lease.

11.03. **Partial Taking.** In case of a partial taking and if this Lease is not terminated, the Owner shall repair the Premises at its own expense in accordance with plans and specifications approved by the Tenant, but the Owner shall not be obligated to expend for such repairs any amount greater than the compensation received from the condemning authority. In case of any partial taking, all compensation paid by the condemning authority in connection with the taking, whether fixed by agreement or judicial award, shall be paid to the Owner and the Tenant as provided in Section 11.02, above, and if this Lease is not terminated as above provided, the Annual Base Rent shall be reduced proportionately on the basis which the square footage of that portion of the Premises taken bears to the total square footage of the Premises before the taking.

XII. ASSIGNMENT, SUBLETTING AND MORTGAGING

12.01. **Restriction.** The Tenant shall not, either voluntarily or by operation of law, transfer, assign, sublet, pledge, encumber, enter into license or concession agreements, change ownership or hypothecate this Lease or the Tenant's interest in and to the Premises or otherwise transfer (hereafter "transfer") this Lease or all or any part of the Tenant's leasehold estate in the Premises without first obtaining the written consent of the Owner, which consent shall not be unreasonably withheld provided that the use of the Premises shall be similar like kind.

12.02. **Sublease Rent.** If the Tenant subleases the Premises at a rent in excess of the Annual Base Rent reserved by the Owner hereunder, the Owner shall have the right to refuse consent thereto unless all such excess rent to be paid by the sub-tenant is agreed to be, and is, paid to the Owner and such condition is expressly agreed to be a reasonable limitation upon the Tenant's right to sublease the Premises. Then Tenant should be released. The Tenant will be released from any obligations under this Lease upon assignment of the Lease to any new tenant at an Annual Base Rent in excess of the Annual Base Rent applicable at the time of assignment.

XIII. SIGNS

13.01. **Signs.** No exterior signs nor interior signs within the Common Areas of the Premises shall be erected or installed by the Tenant without the prior written consent of the Owner. All signs for the Tenant shall be installed, maintained, and removed upon Termination of the lease at the sole expense of the Tenant. Exterior signs shall only be permitted in locations as depicted within Exhibit G and in accordance with Lindon City Code as currently constituted or as may be amended from time to time.

XV. SUBORDINATION AND FINANCING

Provided the Tenant receives a customary non-disturbance agreement from the holder of any such lien or encumbrance, the Tenant agrees that at all times this Lease and the Tenant's leasehold estate created hereby shall be subordinate to the lien of any mortgage, deed of trust or other encumbrance, together with any renewals, extensions or replacements thereof, now or hereafter placed, charged or enforced against the Owner's interest in the Building and the

Premises. Upon the request of the Owner, the Tenant agrees to execute and deliver such documents as may be required to effectuate such subordination. In the event the Tenant shall fail, neglect or refuse to execute and deliver any such document within ten (10) days after receipt by the Tenant of the document(s) to be executed by it, to effect such subordination, the Tenant hereby irrevocably appoints the Owner, and the owner's successors and assigns, the true and lawful attorney-in-fact of the Tenant to execute and deliver in the Tenant's own name any and all such documents for and on behalf of the Tenant in connection with such subordination.

XIV. QUIET ENJOYMENT

The Owner agrees that the Tenant, upon paying the Annual Base Rent and other amounts payable by the Tenant under this Lease, and performing the covenants, terms and conditions of this Lease required of the Tenant to be kept and performed, may quietly have, hold and enjoy the Premises during the term hereof, excepting maintenance and repair activities as outlined in Section VII of this agreement.

XVI. DEFAULT

16.01. **Events of Default.** Time is of the essence of this Lease. The occurrence of any of the following events shall constitute a material default and breach of this Lease by the Tenant:

- (a) Failure of the Tenant to pay any installment of rent within ten (10) days following its due date without the requirement of written notice of demand;
- (b) Failure of the Tenant to pay any other sum payable under this Lease within thirty (30) days after written demand therefore is delivered to the Tenant;
- (c) Default by the Tenant in the performance of any of the Tenant's covenants, agreements or obligations hereunder (excluding a default in the payment of rent or other monies due) which continues for thirty (30) days after written notice thereof is delivered to the Tenant by the Owner; or
- (d) Filing by or against the Tenant in any court, pursuant to any statute, either in the United States or of any other state, a petition in bankruptcy or insolvency, or for reorganization or for appointment of a receiver or trustee of all or a substantial portion of the property owned by the Tenant or if the Tenant makes an assignment for the benefit of creditors, or any execution or attachment shall be issued against the Tenant or all or a substantial portion of the Tenant's property, whereby all or any portion of the Premises covered by this Lease or any improvements thereon shall be taken or occupied or attempted to be taken or occupied by someone other than the Tenant, except as may herein be otherwise expressly permitted, and such adjudication, appointment, assignment, petition, execution or attachment shall not be set aside, vacated, discharged or bonded within thirty (30) days after the determination, issuance or filing of the same, unless such default requires more than thirty (30) days to cure, in which event the Tenant shall not be in default if the Tenant has commenced to cure such default within said thirty-day period and continues to diligently pursue such cure.

16.02. **Owner's Remedies.** In the event of a default by the Tenant under this Lease, the Owner shall have all rights and remedies allowed by law or equity including, but not limited to, the following:

- (a) **Termination - Damages.** In addition to any other remedy available to the Owner at law or in equity, all of which other remedies are reserved unto the Owner, the Owner shall have the right to immediately terminate the Tenant's right to possession of the Premises and/or this Lease and all rights of the Tenant hereunder by delivering a written notice of termination to the Tenant. In the event that the Owner elects to so terminate such possession and/or this Lease, such election shall constitute the election by the Owner to accelerate all future rents payable under this Lease to be immediately due and payable and the Owner shall have the right to

recover from the Tenant the following:

- (i) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss the Tenant proves could have reasonably been avoided; plus
- (iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Tenant proves could have reasonably been avoided; plus
- (iv) Any other amount necessary to compensate the Owner for all detriment proximately caused by the Tenant's failure to perform the obligations under this Lease or which in the ordinary course of things would likely to result there from; plus
- (v) Reasonable attorneys' fees incurred by the Owner as the result of such material default and breach and costs in the event suit is filed by the Owner to enforce any remedy; plus
- (vi) At Owner's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "rent" as used herein shall be deemed to be the Annual Base Rent paid or payable prior to the date of the default.

As used in subparagraphs (i), (ii) and (iii), above, the "worth at the time of award" shall be determined by allowing interest or discounting, as the case may be, at the rate equal to the discount rate of the Federal Reserve Bank of San Francisco at the time of the award. A termination of this Lease under this Section shall not release or discharge the Tenant from any obligation under this Lease but shall constitute only a termination of the right of the Tenant to possess and occupy the Premises, unless otherwise specifically stated by the Owner in writing at the time of such termination.

- (b) **Enforcement.** In the event of a default by the Tenant under this Lease, the Owner may, from time to time, without terminating this Lease, either recover all rent as it becomes due or re-let the Premises or any part thereof for such term or terms and at such rent and upon such other terms and conditions as the Owner, in the Owner's sole discretion, may deem advisable with the right to make alterations and repairs to the Premises, the cost of which shall be chargeable to the Tenant.

If the Owner shall elect to so re-let the Premises, rents received by the Owner there from shall be applied as follows: first, to reasonable attorneys' fees incurred by the Owner as a result of the Tenant's default; second, to the cost of suit if an action is filed by the Owner to enforce the Owner's remedies; third, to the payment of any indebtedness other than rent due under this Lease from the Tenant; fourth, to the payment of any cost of such re-letting; fifth, to the payment of the reasonable and necessary cost of any alterations and repairs to the Premises; and sixth, to the payment of rent due and unpaid hereunder and the residue, if any, shall be held by the Owner and applied in payment of future rent as the same may become due and payable hereunder. Should that portion of such rent received from any re-letting during any month which is applied to the payment of rent hereunder be less than the rent payable during the month by the Tenant hereunder, the Tenant shall pay such deficiency to the Owner. The Tenant shall also pay to the Owner as soon as ascertained any costs and expenses incurred by the Owner in re-letting or in making the alterations and repairs to the Premises, the cost of which is not covered by the rents received from such re-letting.

- (c) **Non-Termination - Re-Entry.** In addition to the other rights of the Owner herein provided, the Owner shall have the right, without terminating this Lease, at its option, to re-enter and re-take possession of the Premises and all improvements thereon and collect rents from any subtenants and/or sublet the whole or any part of the Premises for the account of the Tenant, upon any terms or conditions determined by the Owner. In such event of subleasing, the Owner shall have the right to collect any rent which may become payable under any

sublease and apply the same first to the payment of expenses incurred by the Owner in dispossessing the Tenant and in subletting the Premises and, thereafter, to the payment of the Annual Base Rent and other amounts payable by the Tenant under this Lease required to be paid by the Tenant in fulfillment of the Tenant's covenants hereunder; and the Tenant shall be liable to the Owner for the payment of the Annual Base Rent and other amounts required to be paid by the Tenant under this Lease, less any amounts actually received by the Owner from a sublease and after payment of expenses incurred, applied on account of the Annual Base Rent and other amounts due hereunder. In the event of such election, the Owner shall not be deemed to have terminated this Lease by taking possession of the Premises unless written the Owner has given notice of termination to the Tenant.

- (d) **No Termination.** No re-entry or taking possession of the Premises by the Owner pursuant to the provisions of this Lease shall be construed as an election to terminate this Lease unless the Owner delivers a written notice of such intention to the Tenant. Notwithstanding a re-letting without termination by the Owner due to the default by the Tenant, the Owner may at any time after such re-letting elect to terminate this Lease for such default.
- (e) **Landlord's Lien.** In addition to any other rights of the Owner as provided in this Article, upon the default of the Tenant, the Owner shall have the right to enter the Premises, change the locks on doors to the Premises and exclude the Tenant there from and, in addition, take and retain possession of any property on the Premises owned by or in the possession of the Tenant as and for security for the Tenant's performance. Tenant's lender(s) must have priority lien rights. No property subject to said lien shall be removed by the Tenant from the Premises so long as the Tenant is in default of any monetary obligations under this Lease. No action taken by the Owner in connection with the enforcement of the rights as provided in this Article shall constitute a trespass or conversion and the Tenant shall indemnify, save and hold the Owner harmless from and against any such claim or demand on account thereof.

16.03. **Remedies Cumulative.** The rights, privileges, elections and remedies of the Owner set forth in this Lease or allowed by law or equity are cumulative and the enforcement by the Owner of a specific remedy shall not constitute an election of remedies and/or a waiver of other available remedies.

16.04. **Mitigation.** The Owner shall have the obligation to make reasonable efforts to mitigate the loss or damage occasioned by a default of the Tenant, provided that said obligation to mitigate shall not relieve the Tenant of the burden of proof as required in this Article or otherwise affect the rights and remedies available to the Owner in the event of a default by the Tenant as provided in this Article, or otherwise allowed by law or equity. Nothing herein contained shall obligate the Owner to mitigate rental loss by re-letting the Premises so long as the Owner has other similar premises vacant or by re-letting the Premises to a new tenant whose use of the Premises would be undesirable in the reasonable judgment of the Owner, require the Owner to expend any money to remodel, alter or improve the Premises, or would be result in the Owner being in breach or default under any contractual obligations of the Owner.

XVII. SURRENDER OF PREMISES

17.01. **Condition.** Upon the expiration or earlier termination of this Lease, the Tenant shall quit and surrender possession of the Premises to the Owner in as good order and condition as the same are at the Commencement Date of this Lease or hereafter may be improved by the Owner or the Tenant, reasonable wear and repairs, which repairs are the Owner's obligation excepted. The Tenant shall, without expense to the Owner, remove or cause to be removed from the Premises all debris, rubbish, furniture, equipment, business and trade fixtures, free-standing cabinetwork, movable partitions and other articles of personal property owned by the Tenant (exclusive of any items described in Section 18.03, below) and all similar items of any other persons claiming under the Tenant, and the Tenant shall, before expiration of termination, repair all damage to the Premises resulting from such removal and otherwise restore the Premises.

17.02. **Abandoned Property.** If the Owner shall re-enter the Premises as provided in Article XVII, above, or as otherwise provided in this Lease, any property of the Tenant not removed by the Tenant upon the expiration of the Term of this Lease (or within seven (7) days) after a termination by reason of the Tenant's default), as provided in this Lease, shall be considered abandoned and the Owner may remove any or all of such items and dispose of the same in any manner or store the same in a public warehouse or elsewhere for the account and at the expense and risk of the Tenant, and if the Tenant shall fail to pay the cost of storing any such property after it has been stored for a period of thirty (30) days or more, the Owner may sell any or all of such property at public or private sale in such manner and at such times and places as the Owner, in its sole discretion, may deem proper, without notice to or demand upon the Tenant, for the payment of all or any part of such charges or the removal of any such property, and shall apply the proceeds of such sale as follows: First, to the cost and expenses of such sale, including reasonable attorneys' fees incurred; second, to the payment of the cost of or charges for storing any such property; third, to the payment of any other sums of money which may then or thereafter be due to the Owner from the Tenant under any of the terms hereof; and fourth, the balance, if any, to the Tenant. The provisions hereof shall be without prejudice to the Owner to exercise any other rights over the Tenant's property on the Premises as provided elsewhere in this Lease or allowed by law.

XVIII. MISCELLANEOUS

18.01. **Owner's Right of Entry.** The Owner and the Owner's authorized representatives shall have the right to enter the Premises with prior notice except for emergencies, at all reasonable times for the purpose of determining whether the Premises are in good condition, to make necessary repairs or perform any maintenance, to serve any notice required or allowed under this Lease or to show the Premises to prospective brokers, agents, buyers or tenants.

18.02. **No Waiver.** The failure of the Owner or the Tenant to seek redress for violations or to insist upon the strict performance of any covenant or condition of this Lease shall not be deemed a waiver of such violation or of any future similar violation and the waiver by the Owner or the Tenant of any breach shall not be deemed a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Lease.

18.03. **Notices.** Whenever any notice, approval, consent, request or election is given or made pursuant to this Lease, it shall be deemed delivered when it is in writing and personally delivered or deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested and addressed to the party at the address set forth in the Basic Lease Provisions.

18.04. **Limitation of Owner's Liability.** The obligations of the Owner under this Lease do not constitute personal obligations of the Owner or the successors or assigns of the Owner and the Tenant shall look solely to the real estate that is the subject of this Lease and to no other assets of the Owner or the successors or assigns of the Owner for satisfaction of any liability under this Lease.

18.05. **Holding Over.** Should the Tenant continue to occupy the Premises or any part thereof after the expiration or earlier termination of this Lease, whether with or against the consent of the Owner, such tenancy shall be month-to-month at a rent equal to 150% of the rent in force and effect for the last month of the term expired or terminated.

18.06. **Attorneys' Fees and Costs.** If either party shall default under this Lease and said default is cured with the assistance of an attorney for the other party, as a part of curing said default, the reasonable attorneys' fees incurred by the other party shall be added to the balance due and payable or, in the case of a non-monetary default, shall be paid to the other party upon demand. In the event suit or action is filed by either party against the other to interpret or enforce this Lease, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including attorneys' fees incurred therein, including the same with respect to an appeal. Venue for any legal proceeding, arbitration, litigation shall be in the state of Utah and based on the laws of the state of Utah.

18.07. **Transfer of Owner's Interest.** Transferee agrees to assume Owner's obligations under the Lease. In the event of a sale or conveyance by the Owner of the Premises and/or the Building, other than a transfer for security purposes

only, the Owner shall be relieved from all obligations and liabilities accruing thereafter on the part of the Owner, provided that any funds in the hands of the Owner at the time of transfer in which the Tenant has an interest, shall be delivered to the successor of the Owner. This Lease shall not be affected by any such sale and the Tenant agrees to attorn to the purchaser or assignee provided all the Owner's obligations hereunder are assumed in writing by the transferee.

18.08. **Notice of ADA Violations.** Within ten (10) days after receipt, the Owner and the Tenant shall advise the other party in writing, and provide the other party with copies of any notices claiming or alleging violation of the Americans with Disabilities Act of 1990 (hereafter "ADA") relating to the Premises or the Building, or any claim made or threatened in writing regarding noncompliance with the ADA and relating to the Premises or the Building, or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to the Premises or the Building.

18.09. **Construction.** All parties hereto have either (i) been represented by separate legal counsel, or (ii) have had the opportunity to be so represented. Thus, in all cases, the language herein shall be construed simply and in accordance with its fair meaning and not strictly for or against a party, regardless of which party prepared or caused the preparation of this Lease.

18.10. **Succession.** This Lease shall be binding upon and shall inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties.

18.11. **Estoppel Certificate.** The Tenant shall, at any time upon not less than ten (10) days' prior written notice from the Owner, execute, acknowledge and deliver to the Owner a statement in writing (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, (b) acknowledging that there are not, to the Tenant's knowledge, any uncured defaults on the part of the Owner hereunder, or specifying such defaults if they are claimed, and (c) containing any other certifications, acknowledgments and representations as may be reasonably requested by the Owner or the party for whose benefit such Estoppel certificate is requested. Any prospective purchaser or encumbrancer of the Premises or the Real Property may conclusively rely upon any such statement. The Tenant's failure to deliver such statement within said time shall be conclusive upon the Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by the Owner, (ii) that there are no uncured defaults in the Owner's performance, (iii) that not more than an amount equal to one (1) month's rent has been paid in advance, and (iv) that such additional certifications, acknowledgments and representations as are requested under subsection (c) hereof, are valid, true and correct as shall be represented by the Owner. If the Owner desires to finance or refinance the Premises, the Tenant hereby agrees to deliver to any lender designated by the Owner such financial statements of the Tenant as may be reasonably required by such lender. All such financial statements shall be received by the Owner in confidence and shall be used only for the purpose herein set forth.

18.12. **Warranty Re: Financial Statements.** The Tenant and the officer(s) signing this Lease for a corporate Tenant and each guarantor of this Lease, if any, represent, warrant and certify to the Owner that any financial statement or other financial information given to the Owner is true, accurate and correct and truly and accurately represents the financial condition of the Tenant or the guarantor(s), as the case may be, as of the date of such financial statement. The Tenant and the guarantor(s) acknowledge that said financial statement(s) and information was given to the Owner to induce the Owner to execute this Lease and was relied upon by the Owner in so doing.

18.13. **Severability.** If any term or provision of this Lease shall be determined by a Court to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties that if any provision in this Lease is capable of two constructions, then the provision shall be interpreted to have the meaning which renders it valid.

18.14. **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, court orders, acts of God, inability to obtain labor or materials or reasonable substitutes thereof, government restrictions, regulations or controls,

hostile government action, civil commotion, fire or other casualty and other causes beyond the reasonable control of the party obligated to perform shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage except the obligations imposed with regard to rent and other charges to be paid by the Tenant pursuant to this Lease, which obligation shall not be affected thereby.

18.15. **No Recording or Disclosure.** Neither party shall record this Lease or any memorandum hereof, it being agreed that the Tenant's possession of the Premises shall be adequate notice of the Tenant's leasehold interest. In addition, the Tenant agrees to not disclose the terms of this Lease to any third party, excepting only the employees and agents of the Tenant, including the Tenant's accountant and attorney.

18.16. **Article Headings.** The article headings, title and captions used in this Lease are for convenience only and are not part of this Lease.

18.17. **Entire Agreement.** This Lease, including the exhibits attached hereto, contains the entire agreement between the parties as of the date of this Lease and either party hereof has not induced the execution or any agent of either party, by representations, promises, undertakings not expressed herein. There are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the parties concerning the subject matter of this Lease which are not expressly contained herein.

18.18. **Special Provisions.** The special provisions, if any, on "Exhibit G" attached hereto and made a part hereof are a part of this Lease. In the event of a conflict between the General Provisions and the special provisions, if any, on Exhibit G, the latter shall control.

18.19 **Agency Disclosure.** At the signing of this Agreement, the listing agent, John Monson represents the Landlord and Spencer Croshaw represents the Tenant. Landlord and Tenant confirm that prior to signing this Lease, written disclosure of the agency relationship was provided to them.

List of Exhibits:

EXHIBIT A

(Building)

DESCRIPTION OF PREMISES

EXHIBIT B

(Building and Premises Measurements)

EXHIBIT C

CONSTRUCTION PRIOR TO FINAL OCCUPANCY

Landlord shall carpet two of the offices designated by tenant with a carpet pad in one.
Landlord shall also convert the two holding cells into a break area for tenant.

EXHIBIT D

OPTION(S) TO RENEW
(Market Rent)

EXHIBIT E

ADJUSTMENT OF ANNUAL BASE RENT

EXHIBIT F

INSURANCE COVERAGE PROVIDED BY TENANT

EXHIBIT G

SIGNS

EXHIBIT H

Commercial Lease Guaranty

EXHIBIT A
(Building)

DESCRIPTION OF PREMISES

Premises consists of office environment within a portion of the lower level of the Lindon City Center at 100 North State Street, Lindon, Utah 84042. The office premises consists of all areas within the secured office space beyond the front reception area. Common areas consist of the parking lots, sidewalks, entranceways, lobby, restrooms, utility and mechanical rooms, and exterior stairwells with mechanical equipment. Exhibit B shows office premises vs common areas.

Photos below show some of the office areas prior to contract signing and carpet cleaning:



EXHIBIT B
(Building and Premises Measurements)

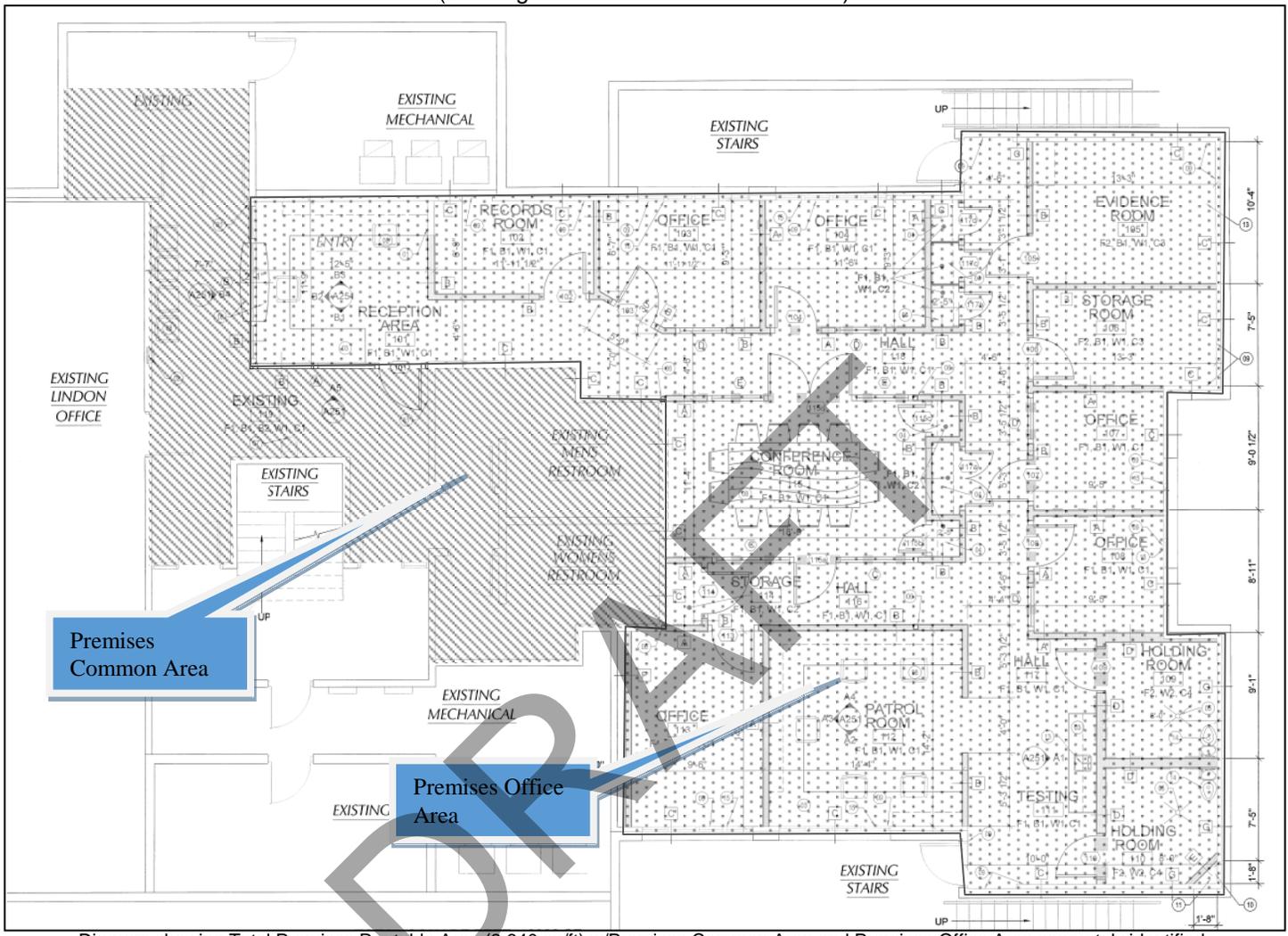


Diagram showing Total Premises Rentable Area (2,640 sq/ft) w/Premises Common Area and Premises Office Area separately identified.

EXHIBIT C

CONSTRUCTION TO BE COMPLETED PRIOR TO FINAL OCCUPANCY

- Landlord to install carpet w/pad in north-east corner evidence room.
- Landlord to install carpet in north-east storage room.
- Additional opening on evidence room will be framed in and dry walled/painted to match.
- Metal door frames and doors on evidence room and storage room can be painted a dark brown color by request of the Tenant, but Owner will not be replacing frames and doors.
- Center window at reception counter to be replaced with sliding or swinging window opening system with lockable function.
- New paint on interior walls where needed.
- Carpets cleaned prior to occupancy (carpets were steam cleaned in October 2017)
- Holding room area will be remodeled to remove north/south wall between the two holding rooms. Existing tile will be removed and floor drains capped. New tile will be installed on floor to match as close as possible to style of tile near stairwell entryway. Two electrical outlets will be provided on east side of remaining wall adjacent to counter/sink. Trim and casing around doorways will be finished to match similar style as other wood casing/trim.
- Existing office furnishings shall be removed from the Premises except for the conference room table, which the Tenant may use on the Premises during the term of this Lease.
- Exit sign above door between the reception area and the lobby will be removed, as it is not required by Building Code.

DRAFT

EXHIBIT D**OPTION(S) TO RENEW**

At any time within 12 to 18 months of the ending term of this Lease Agreement the Tenant can renegotiate with the Owner a possible extension of the Term of this Agreement. Owner is under no obligation to extend this Agreement nor under any obligation to enter into a new agreement with Tenant. Annual rent price will be negotiated based upon market prices typical at the time of renegotiation, but in no case shall starting rent on a new term or lease be less than the final monthly rental rate established by this lease Agreement.

DRAFT

EXHIBIT E**ADJUSTMENT OF ANNUAL BASE RENT**

Base rent shall increase 3% annually as shown on the following table:

Date	Months	Rate	SF	Monthly	Annually
April 2018 - March 2019	12.00	\$ 10.50	2,640	\$ 2,310.00	\$ 27,720.00
April 2019 - March 2020	12.00	\$ 10.82	2,640	\$ 2,379.30	\$ 28,551.60
April 2020 - March 2021	12.00	\$ 11.14	2,640	\$ 2,450.68	\$ 29,408.15
April 2021 - March 2022	12.00	\$ 11.47	2,640	\$ 2,524.20	\$ 30,290.39
April 2022 - March 2023	12.00	\$ 11.82	2,640	\$ 2,599.93	\$ 31,199.10
	60.00				

DRAFT

EXHIBIT F

INSURANCE COVERAGE PROVIDED BY TENANT

Insurance Certificate meeting requirement listed in section VI (Insurance) shall name the following as other entities and persons named as additional insured's:

Lindon City Corporation and its Elected and Appointed Officials, Employees, Agents, Contractors, Invitees and Customers.

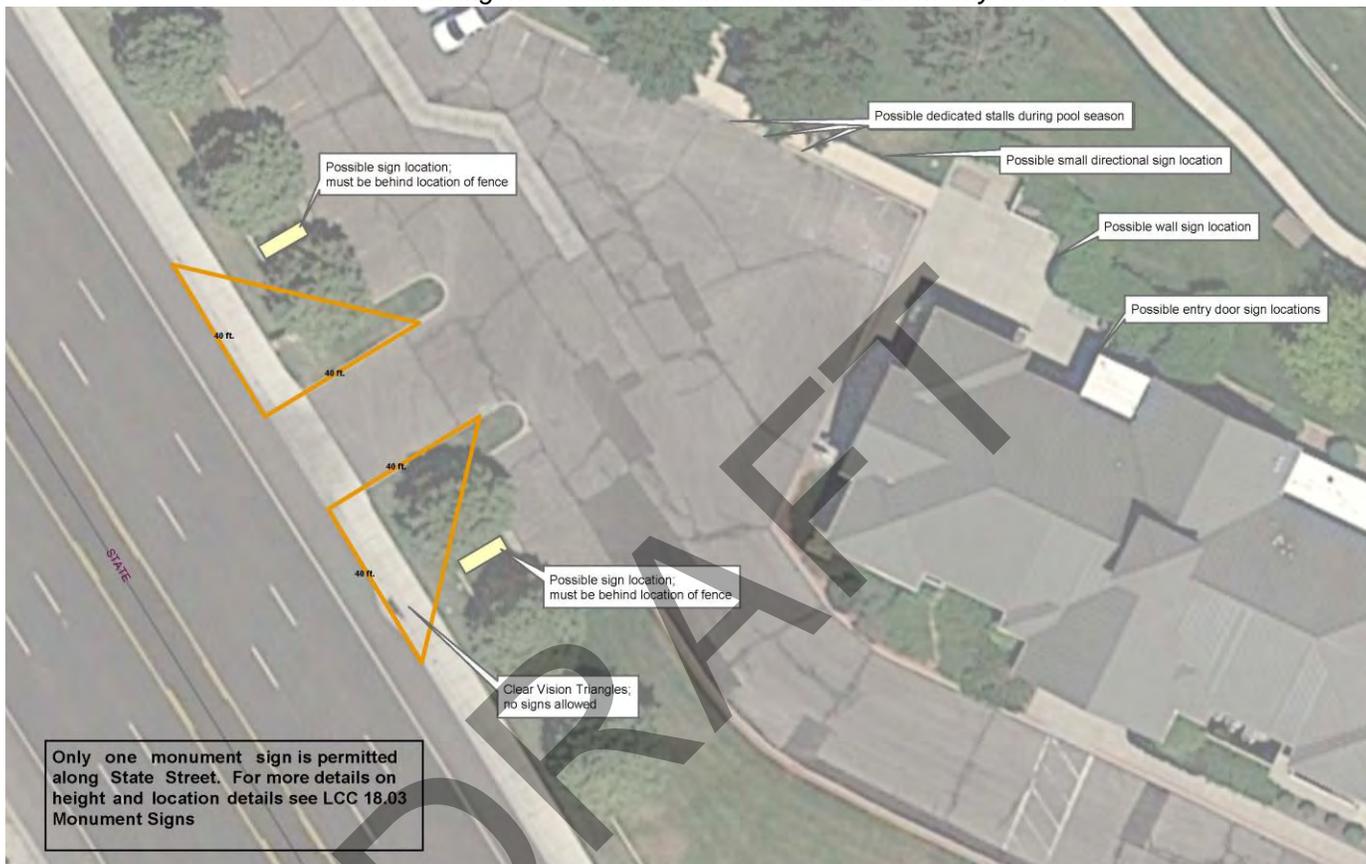
(copy of Tenant's Insurance Certificate shall be provided prior to occupancy)

DRAFT

EXHIBIT G

Signage Location & Code Requirements

See attached maps & aerial photo descriptions showing sign locations/types. Signs installation requirements shall meet current building code standards and adhere to Lindon City Code.





Possible dedicated parking during pool season. 2-3 stalls

Possible directional sign to indicate front entry.

EXHIBIT H**COMMERCIAL LEASE GUARANTY**

**GUARANTY TO COMMERCIAL LEASE CONCERNING THE LEASED PREMISES AT 100 North State Street, Lindon, UT 84042 between Lindon City Corp.
(Landlord) and Intervivos Law LLC (Tenant).**

- A. In consideration for Landlord leasing the leased premises to Tenant, the undersigned Guarantors guarantee Tenant's performance under the above-referenced lease.
- B. If Tenant fails to timely make any payment under the lease, Guarantors will promptly make such payment to Landlord at the place of payment specified in the lease. Guarantor is also responsible for any property damage to the leased premises or Property (as defined in the lease) for which the Tenant is responsible under the lease. If Tenant breaches the lease, Guarantor will: (i) cure the breach as may be required of Tenant by the lease; or (ii) compensate Landlord for Landlord's loss resulting from the breach.
- C. Guarantors guarantee Tenant's obligations under the lease regardless of any modification, amendment, renewal, extension, or breach of the lease. Guarantors waive any rights to notices of acceptance, modification, amendment, extension, or breach of the lease. All Guarantors are jointly and severally liable for all provisions of this guaranty. Filing for bankruptcy by Tenant will not diminish Guarantors obligations under this guaranty.
- D. The laws of the State of Utah govern the interpretation, validity, performance, and enforcement of the guaranty. Any person who is a prevailing party in any legal proceeding brought under or related to this guaranty is entitled to recover attorney's fees from the nonprevailing party.
- E. Guarantors authorize Landlord to obtain a copy of any consumer or credit report of Guarantors from any consumer reporting agency and to verify relevant information related to Guarantors' creditworthiness from other persons such as banks, creditors, employers, existing and previous landlords, and other persons.
- F. Time of Essence. Time is of the essence of this Guaranty.
- G. Entire Agreement. This Guaranty and any attached addenda's constitute the entire Guaranty and no oral statement or amendment Not Reduced to Writing and signed by Guarantor shall be enforceable.

H. Special Provisions. The following provisions, if conflicting with any preceding paragraph, shall control:

IN WITNESS WHEREOF, Guarantor has hereto set its hand and seal.

Signed, sealed and delivered in the presence of:

Witness
PRINT NAME:

Date

Guarantor
PRINT NAME:

Date

Notary Public
My Commission Expires:

DRAFT

7. Discussion Item — Options for Land and Water Conservation Fund Grants (30 minutes)

Lindon City Parks & Recreation Director, Heath Bateman, and grant consultant, Ron Clegg, will review options for possible grant opportunities available through the Land and Water Conservation Fund. The Council will give direction to the Parks Department to pursue, or not pursue, grant funding for specific park projects.

Heath and Ron will present materials to the Council at the meeting. See this [link](#) for highlights on the Land and Water Conservation Fund grant program, which is a Federal grant administered through the National Park Service.

Several possible project ideas and potential property purchases for future park areas will be discussed. Ron has been hired by the Parks Department as a consultant to assist in evaluating options for the grant and, if a project application is desired by the Council, Ron can further assist the City in applying for the federal grant.

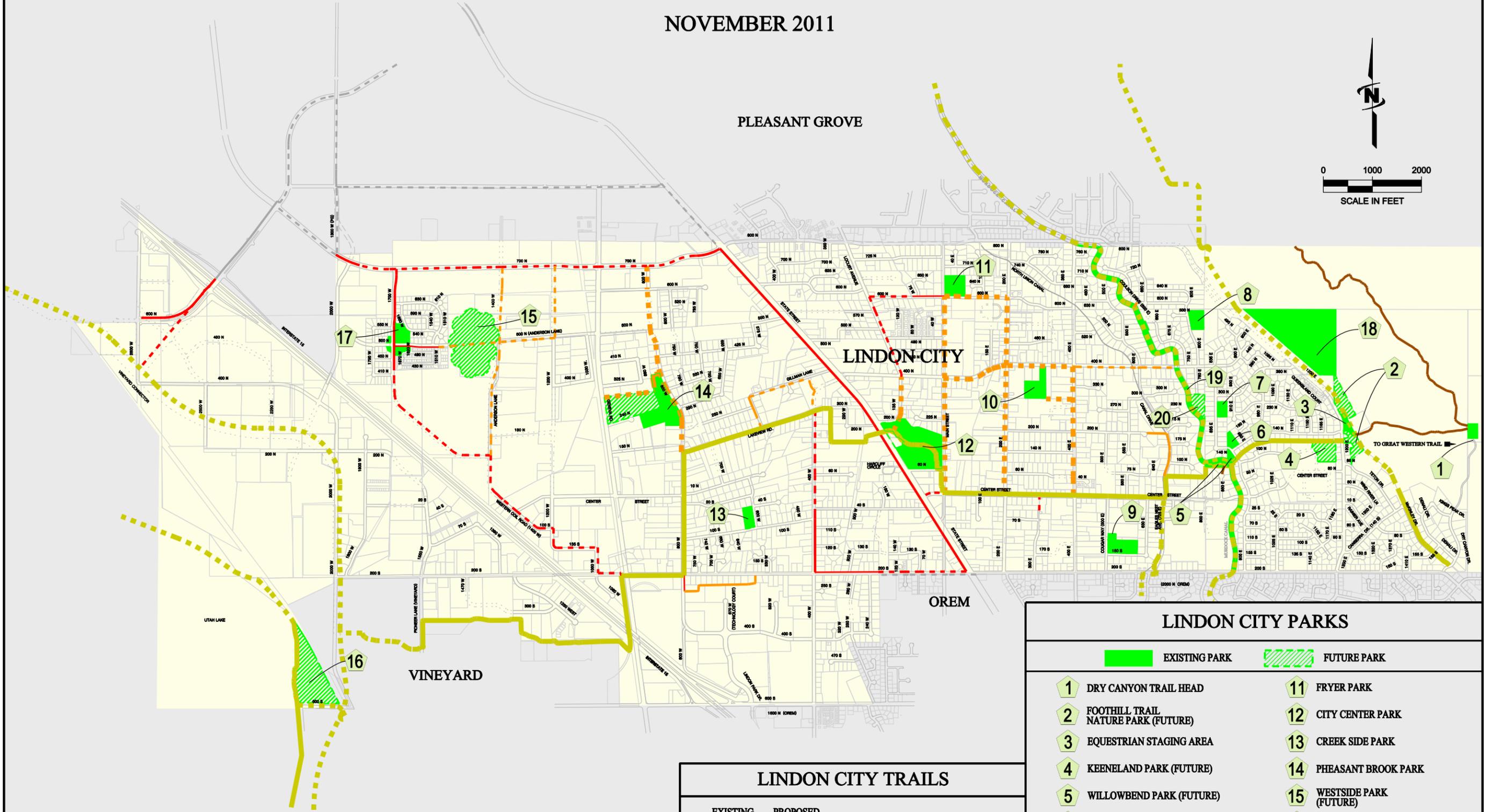
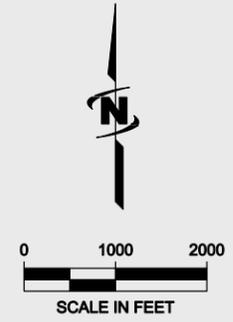
FYI - a copy of the most current Parks & Trails Master Plan Map from 2011 is attached.

A map showing 1/4 mile radius from park boundaries (reasonable walking distance) is also attached.

Direction and feedback will be provided, but no motion made.

LINDON CITY PARKS AND TRAILS MASTER PLAN MAP

NOVEMBER 2011



LINDON CITY TRAILS

EXISTING	PROPOSED	
		REGIONAL TRAILS
		LOCAL TRAILS - 10' WIDE, ASPHALT
		LOCAL TRAILS - 6' WIDE, ASPHALT
		LOCAL TRAILS - 6' WIDE, CONCRETE
		LOCAL TRAILS - 4' WIDE, CONCRETE
		UNIMPROVED TRAILS
		OREM/PLEASANT GROVE TRAILS

LINDON CITY PARKS

	EXISTING PARK		FUTURE PARK
1	DRY CANYON TRAIL HEAD	11	FRYER PARK
2	FOOTHILL TRAIL NATURE PARK (FUTURE)	12	CITY CENTER PARK
3	EQUESTRIAN STAGING AREA	13	CREEK SIDE PARK
4	KEENELAND PARK (FUTURE)	14	PHEASANT BROOK PARK
5	WILLOWBEND PARK (FUTURE)	15	WESTSIDE PARK (FUTURE)
6	PANORAMA PARK	16	GENEVA RESORT PARK (FUTURE)
7	WATER TANK PARK	17	MEADOW PARK
8	SQUAW HOLLOW DEBRIS BASIN PARK	18	HILLSIDE PARK
9	PIONEER PARK	19	MURDOCK CANAL PARK (FUTURE)
10	HOLLOW PARK	20	LINDON VIEW PARK (FUTURE)



1/4 Mile buffer around current park properties (reasonable walking distance to park)



8. Discussion Item — Transportation Utility Fee Options for Road Maintenance (45 minutes)

The City Engineer, Noah Gordon, will review options for implementation of a Transportation Utility Fee (TUF) for the Council to consider to help generate dedicated funds for city-wide road maintenance. On December 5, 2017 the City Council discussed the TUF and directed the City Engineer to perform an analysis showing estimated monthly fees for several target properties throughout Lindon. The Engineer will present this analysis and allow the Council to view possible TUF rates based on various funding scenarios. The Council will consider a target funding amount and provide feedback and direction on presenting further information to the public.

The attached info from City Engineer Noah Gordon was previously presented in December, but attached again as supplemental info to help with the discussion. Noah will review TUF rates for the following properties as examples to show impact of various funding levels as desired by the Council. He will essentially use an Excel spreadsheet program to plug in total desired funding numbers, as directed by the Council, which will adjust monthly TUF rates accordingly.

Below is a list of approximately 20 commercial / industrial sites that we plan on looking at in city council meeting next week. Residential properties will also be evaluated (single-family / multi-family). These sites have been selected to help the council see the possible financial effect of implementing a transportation fee.

Site	Type
Arby's (fast food, national chain)	Fast food
Burton Lumber Supply	Retail
Call Center (Frontier Communications)	Office
Chase Bank	Bank
Church	Public
City Center	Public
Elementary School	School
Home Depot	Retail
Interstate Gratings (200 South)	Industrial
Jr High School	School
Lexus car dealership	Car sales
Los Hermanos (sit-down restaurant, local)	Sit-down restaurant
Mountain States Steel	Industrial
Safe and Secure (storage unit)	Storage Units
Seagull Book	Retail
Tri-City Medical	Office
Wadley Farms (reception center)	Recreational
Wal-mart	Retail

Direction and feedback from the Council will be provided with regards to a TUF amount or range that should be presented to the public in future meetings or through other notifications. No formal motion will be made.

Questions from the 2017 General Plan survey regarding streets, sidewalks, bike lanes, etc are included for review. Specifically review Questions #28 and #29.

Transportation Utility Fees (TUFs)

Background Information on TUFs

See the following websites for a brief summary regarding Transportation Utility Fees (TUFs), including things such as:

- What is a Transportation Utility Fee?
- Who can implement a TUF?
- What are the keys to success and potential pitfalls?
- Where has this strategy been applied?
- Case studies
- Where to get more information
- Comparison with other funding sources
- Legal Challenges

<http://www.mdt.mt.gov/research/toolkit/m1/ftools/fd/tuf.shtml>

<http://onlinepubs.trb.org/onlinepubs/conferences/2014/Finance/30.Turley,Carole.pdf>

Utah Cities Using or Considering TUFs

Provo

- Adopted 11/2013
- Need \$4M / year for road maintenance
 - Current Fee raises only \$2.3M / year
- City Code
 - <http://www.codepublishing.com/UT/Provo/html/Provo05/Provo0508.html#45>
- Consolidated Fee Schedule
 - http://www.codepublishing.com/UT/Provo/mobile/index.pl?path=../html/ProvoCFS.html#utility_transportation_fund_fee
 - Category - Fee per Month
 - Residential A – Single-Family \$3.50
 - Residential B – Multifamily \$2.10
 - Commercial A (< 100 Trip-Ends) \$9.50
 - Commercial B (100 – 199 Trip-Ends) \$25.10
 - Commercial C (200 – 599 Trip-Ends) \$75.50
 - Commercial D (600+ Trip-Ends) \$225.50

- Public Use A (< 300 Trip-Ends) \$20.50
 - Public Use B (≥ 300 Trip-Ends) \$91.50
- Video re: bonding vs. TUF
 - <http://www.provo.org/about-us/current-issues/utility-transportation-fund>

Pleasant Grove

- Considered a TUF a couple of years ago, but has *not* adopted one
- Proposed monthly fee at that time
 - Residents - \$4.90
 - Businesses - \$60.20
- Estimated that proposed fee would raise \$1M / year

Mapleton

- Adopted 7/2016
- Need \$200k / year for road maintenance
- City Code
 - http://sterlingcodifiers.com/codebook/index.php?book_id=801&chapter_id=97906
- Consolidated Fee Schedule
 - <http://mapleton.org/wp-content/uploads/2015/01/Consolidated-Utility-Fee-Schedule-Final-Approval-7-20-16.pdf>
 - Residential = \$8 / month
 - Commercial/Public = \$12/month
- Open House Announcement
 - <http://mapleton.org/event/road-utility-fund-open-house/>

Highland

- Adopted 5/2017
- City Code
 - [https://highland.municipalcodeonline.com/book?type=ordinances#name=3.46 Transportation Utility Fund](https://highland.municipalcodeonline.com/book?type=ordinances#name=3.46%20Transportation%20Utility%20Fund)
- Consolidated Fee Schedule
 - <http://www.highlandcity.org/DocumentCenter/View/2121>
 - Each Utility Account holder shall be assessed a Fee of \$18.50. Fee may be modified by resolution of the City Council in such amounts as deemed necessary to provide funds to properly maintain and rehabilitate City streets.
 - All = \$18.50 / month

South Weber City

- Adopted 6/2017
- The Fee was established as a means to equitably fund the continual operations and maintenance of all City public roads. It is a public utility service, so it will be included in the monthly utility bill beginning July 2017.
- The adopted monthly rate is tiered:
 - \$5 first year
 - \$10 second year
 - \$15 subsequent years

Vineyard

- City Code
 - <http://www.vineyard.utah.gov/DocumentCenter/Home/View/202>
- Consolidated Fee Schedule
 - <http://www.vineyardutah.org/DocumentCenter/Home/View/63>
 - Transportation Utility = \$3.5 Per ERU (Equivalent Residential Unit)

Salt Lake City

- Considering adopting a TUF
- Held workshop to discuss Utility Fee, April 2017
- <http://archive.sltrib.com/article.php?id=4969402&itype=CMSID>

Fruit Heights

- <https://www.fruitheightscity.com/310/Road-Surface-Funding>
- FAQ on Fees vs Taxes for Road Maintenance
 - <https://www.fruitheightscity.com/DocumentCenter/View/1600>

Others

Lindon City's Road Funding Situation

Pavement Management Program – see attached *Lindon City Pavement Management Plan*

Historical Funding Sources

- Class C Road Funds
- General Fund Transfers

Simplified breakdown for road funding:

\$390,000 = Average annual Class 'C' Road Funds received from State over last 4 years. Typical expenditures categorized below:

- \$213,000 is used annually to pay for the 700 North road bond. This bond continues until 2025.
- \$7,000 for street striping
- \$25,000 for crack sealing
- \$85,000 is used annually to pay power utilities on street lights
- \$15,000 for new street light purchases
- \$30,000 for professional & tech services (engineering, studies, 500 N. UDOT RR crossing design, etc)
- \$... Anything remaining goes toward road maintenance. (For this example it's about \$15,000.)

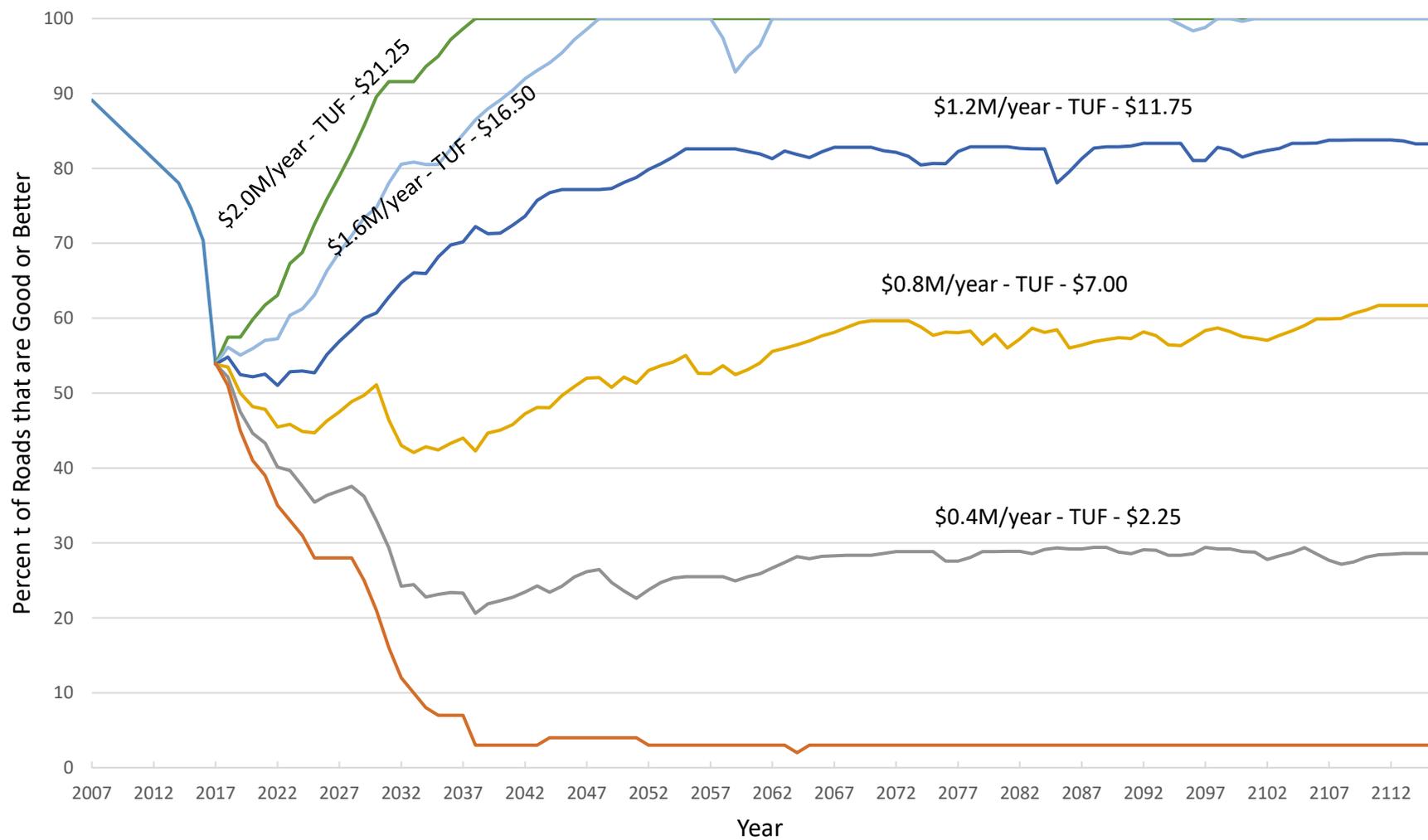
Very minimal amount annually from Class C funds being put towards actual surface treatments other than crack sealing. City has therefore traditionally supplemented the Road Fund with General Funds (sales tax, property tax, franchise taxes) to whatever amount we can afford and the Council approves. During the recession it was hardly anything and over the last couple years it's been hundreds of thousands of dollars.

Below are the amounts the City Council approved to supplement roads from the General Fund

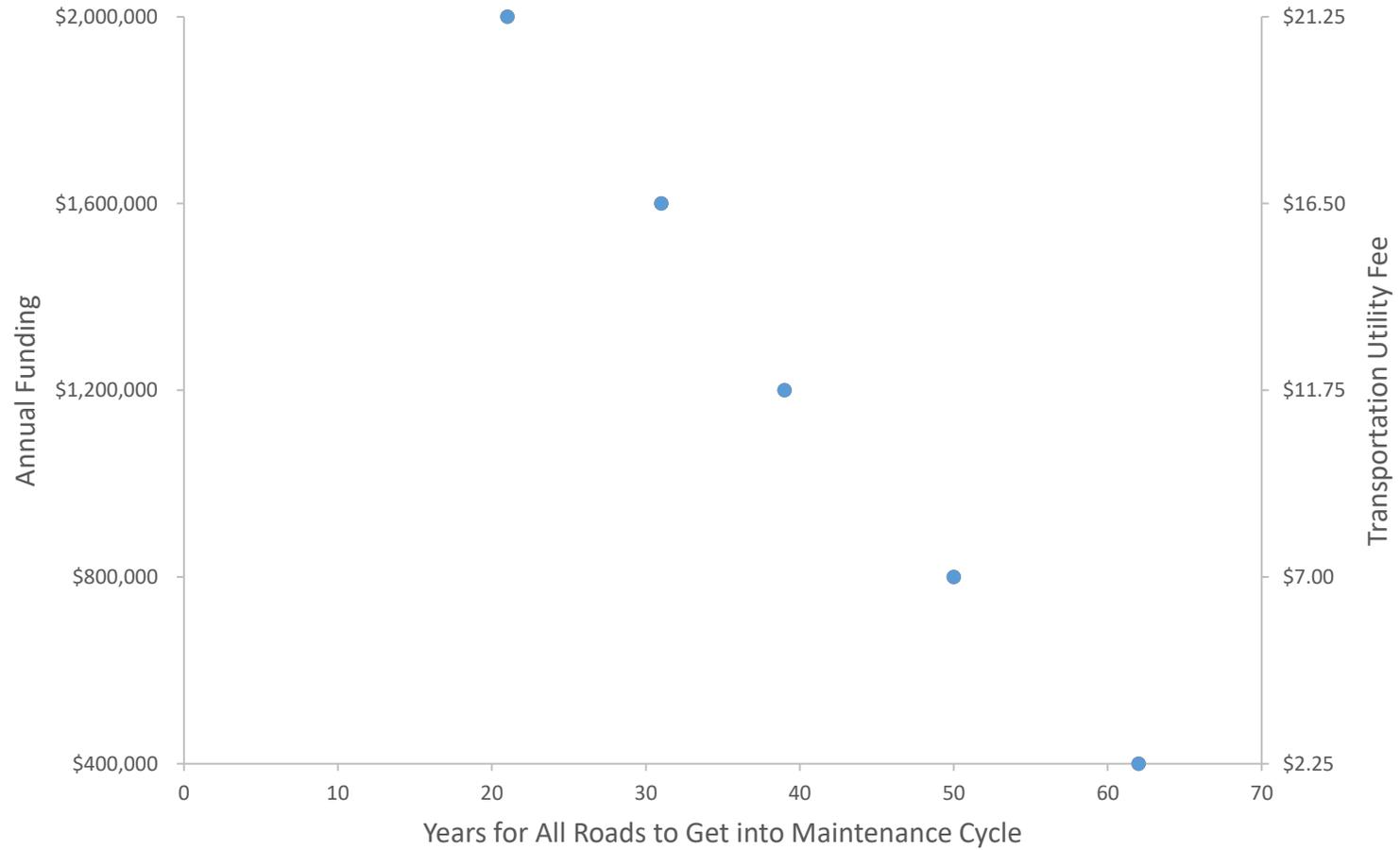
- FY2015-16 - \$66,000
- FY2016-17 - \$800,000
- FY2017-18 - \$500,000

Note: RDA areas have also used funding for road improvements but those are limited to those specific RDA districts (Home Depot business park area; East side of State Street; 700 North) and can't be used for city-wide projects.

Roadway Condition Over Time at Different Annual Funding Levels

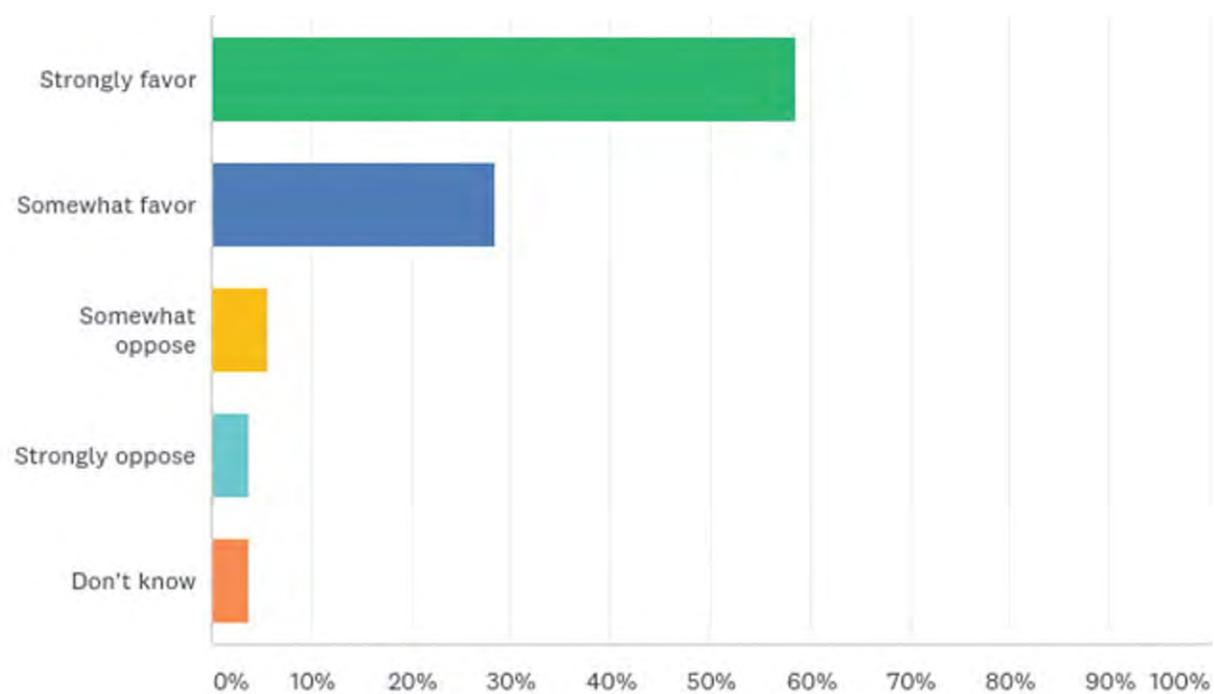


Funding vs. Years to Get All Roads into Maintenance Cycle



Q20. The city has an existing trails master plan and has constructed portions of the network. Do you favor or oppose continued trail development in Lindon?

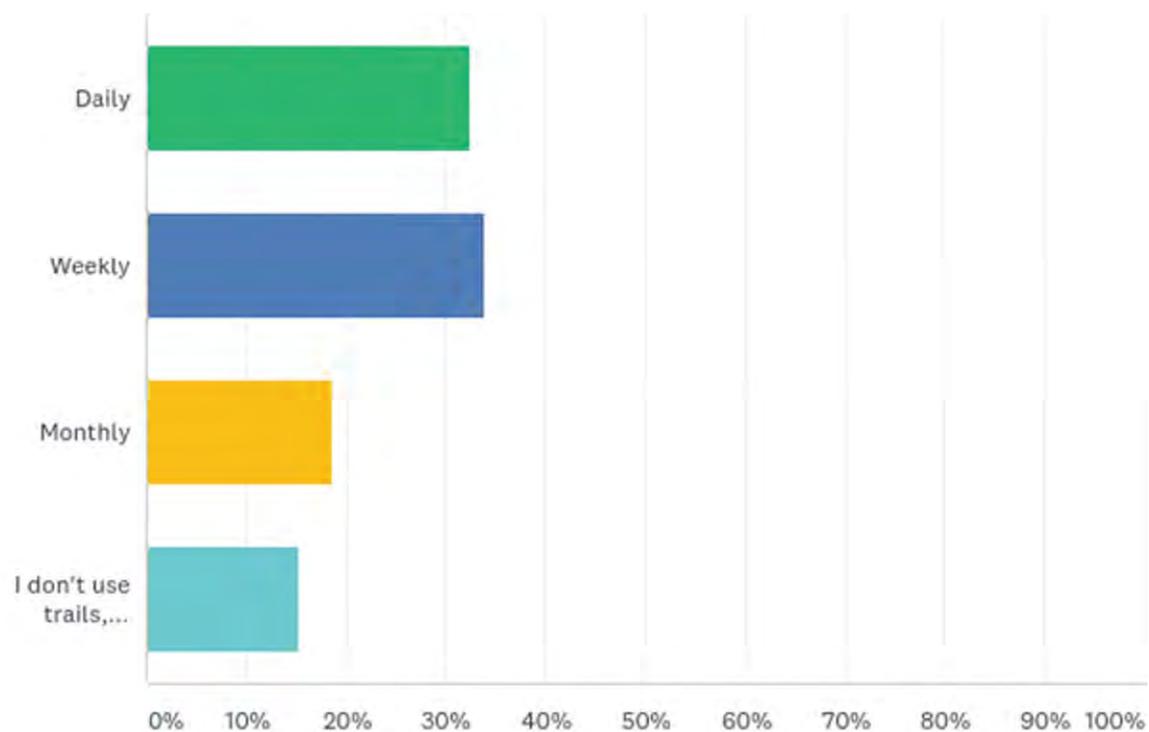
Answered: 352 Skipped: 12



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Q21: How often do you use trails, sidewalks, or bike lanes within Lindon?

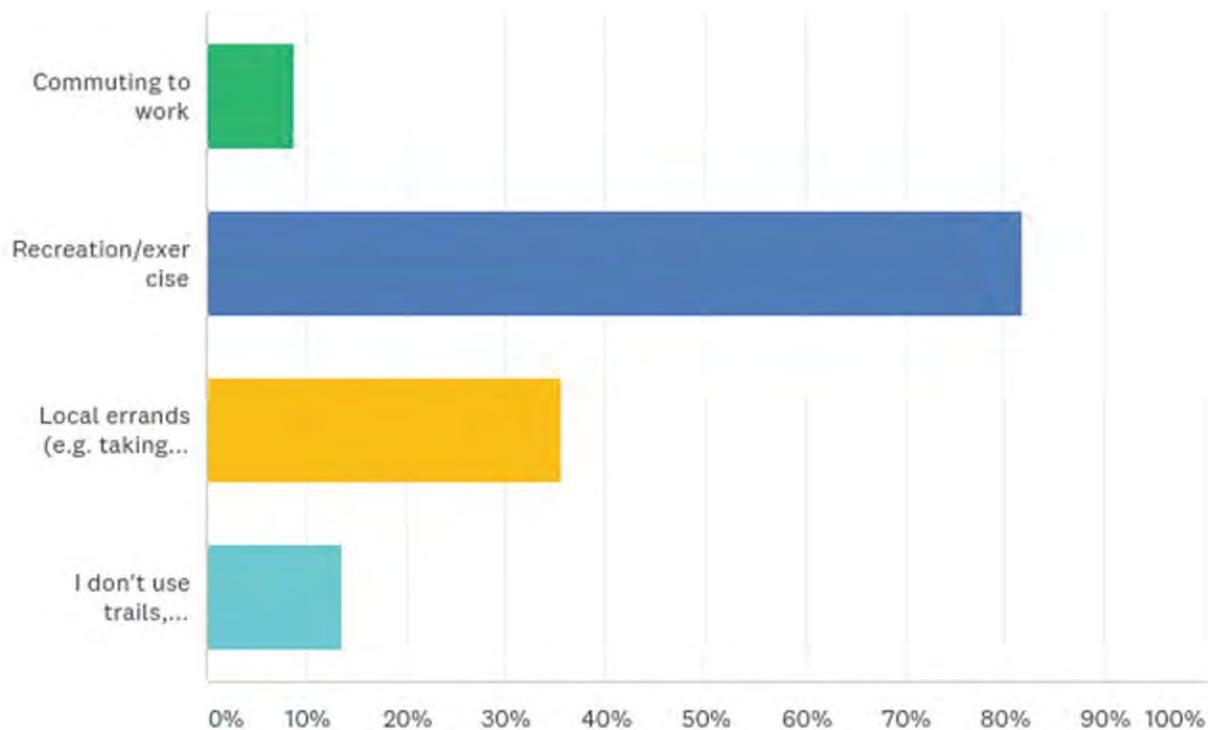
Answered: 349 Skipped: 15



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Q22: For what purpose do you use local trails, sidewalks, or bike lanes? Check all that apply.

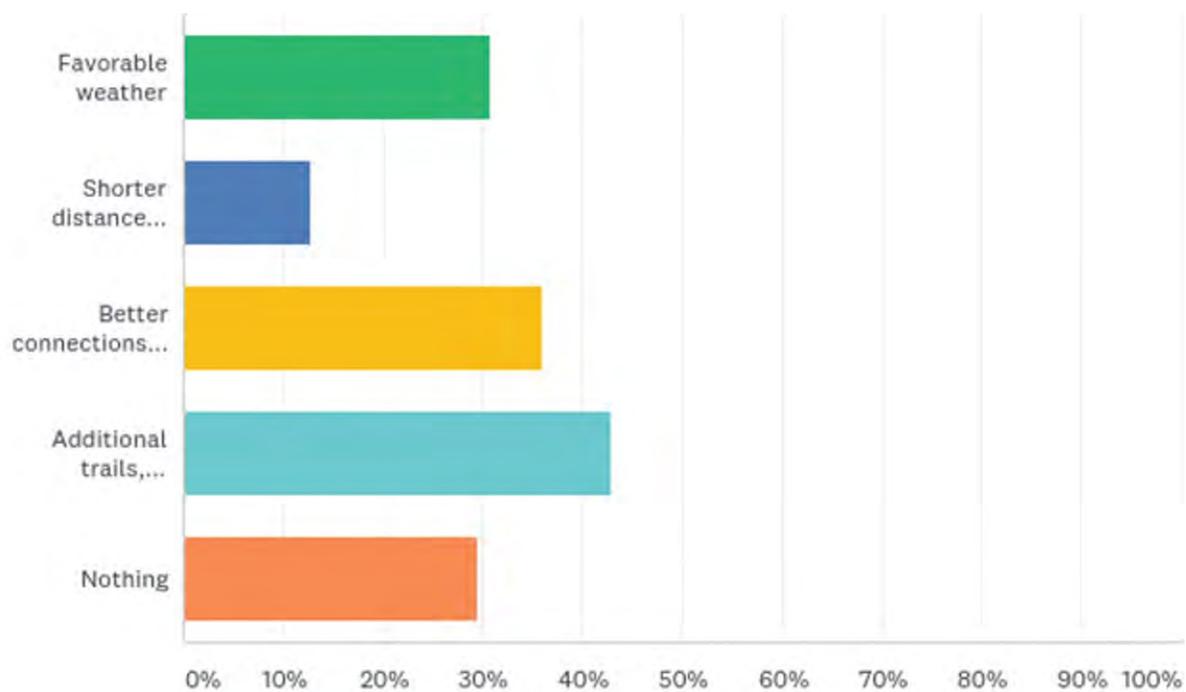
Answered: 352 Skipped: 12



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Q23: What would increase your use of trails, sidewalks, or bike lanes? Check all that apply.

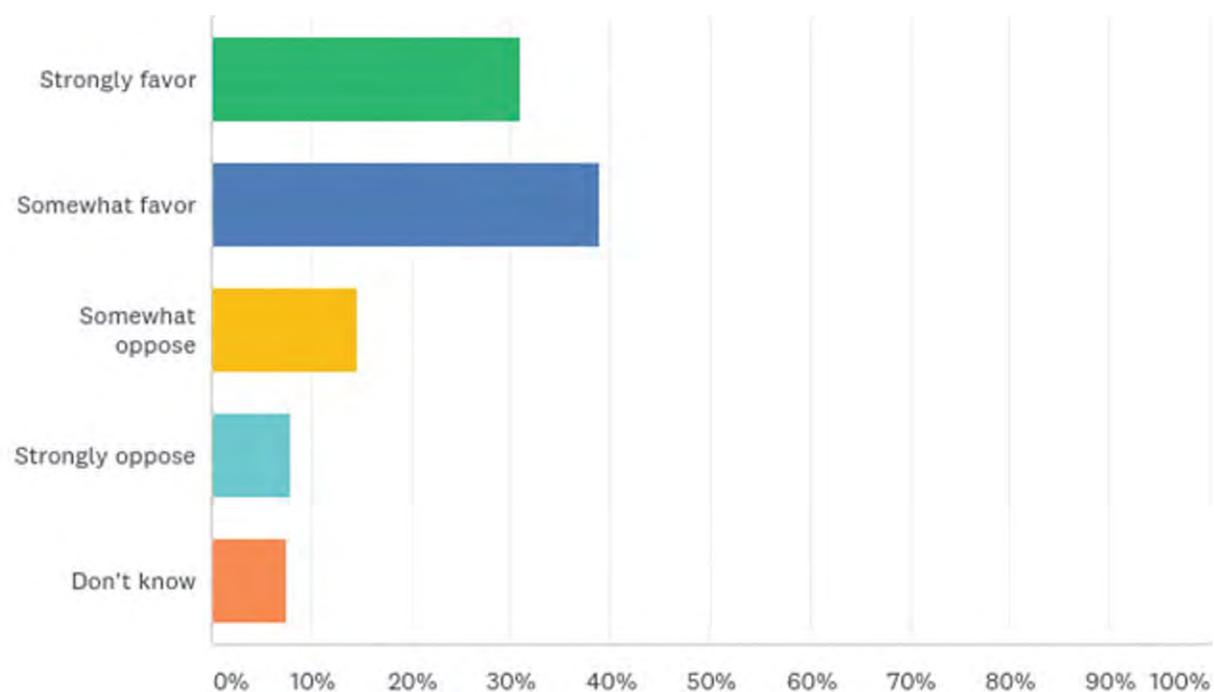
Answered: 352 Skipped: 12



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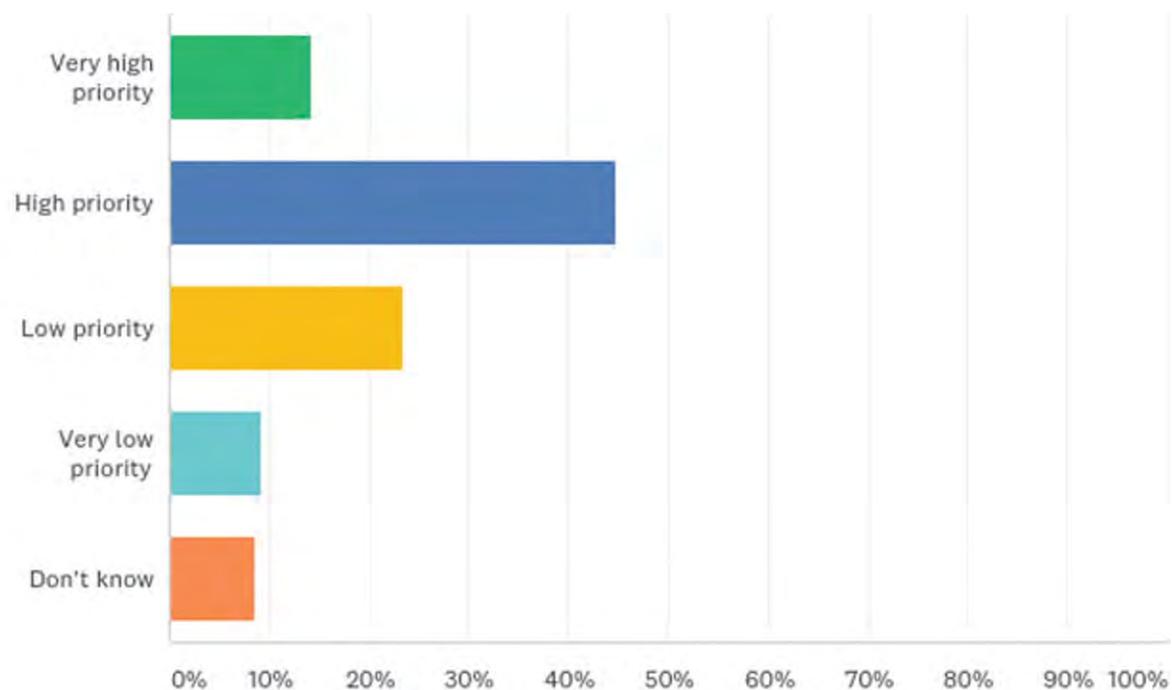
Q24. The City sidewalk system has gaps in infrastructure. Do you favor or oppose prioritizing funding to complete sidewalk system gaps over other City needs?

Answered: 349 Skipped: 15



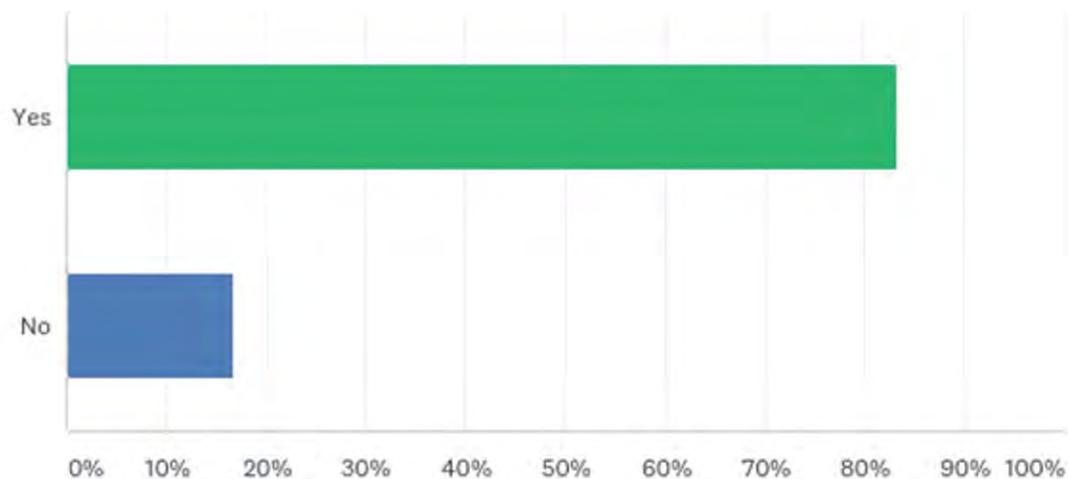
Outlines priority areas for improvements to both pedestrian and bicycle infrastructure facilities. How would you prioritize City investment in bicycle and pedestrian infrastructure?

Answered: 351 Skipped: 13



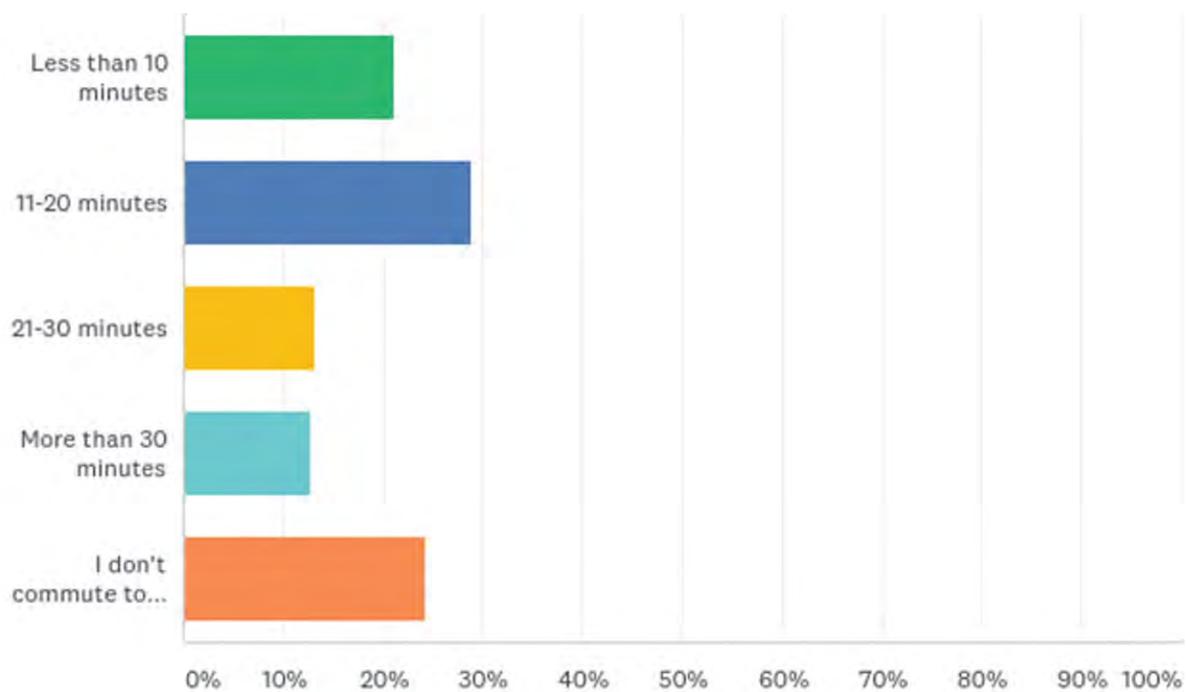
Q26: Do you feel the City has adequate street connectivity, i.e. ability to travel conveniently from one area of the City to another?

Answered: 347 Skipped: 17



Q27: If you commute to work, what is your average commute time?

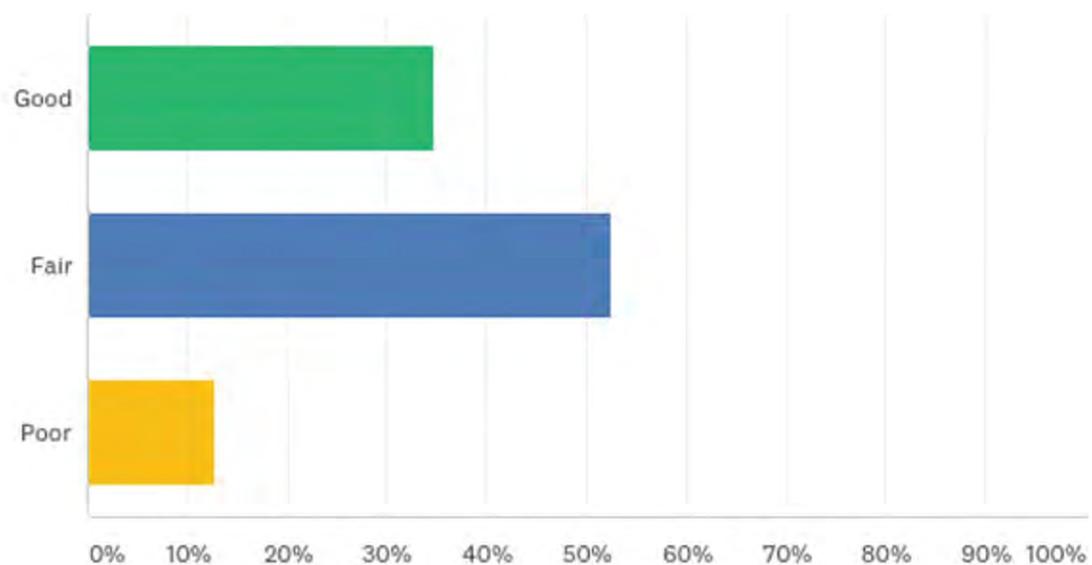
Answered: 347 Skipped: 17



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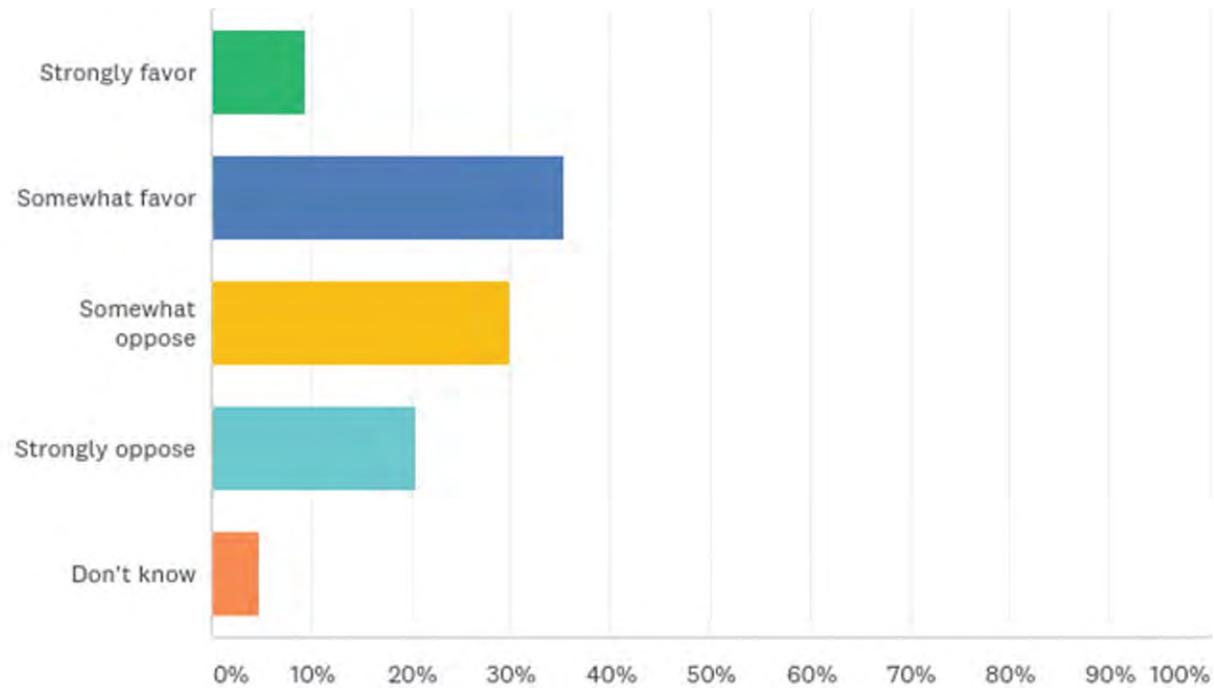
Q28: How would you rate the quality of existing public roads in Lindon?

Answered: 351 Skipped: 13



Q29: Do you favor or oppose possible new fees and/or taxes dedicated to road maintenance?

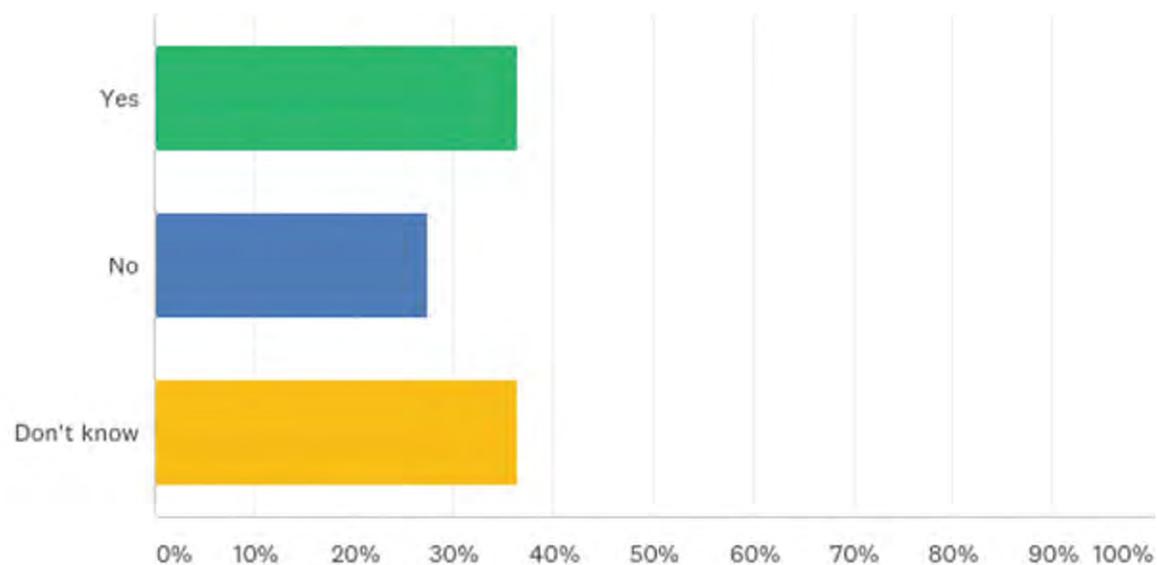
Answered: 351 Skipped: 13



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Q30: Do you feel Lindon has adequate public transportation options?

Answered: 347 Skipped: 17



9. Public Hearing — Ordinance Amendment, Lindon City Codes 5.42 Residential Facility Business License and 17.70 Group Homes; Ordinance #2018-2-O (25 minutes)

The City Council will review and consider Ordinance #2018-2-O amending Lindon City Code to conform to current legal standards for processing applications for residential treatment facilities and group homes.

See attached materials from the Planning Department.

Ordinance Amendment, Lindon City Codes 5.42 Residential Facility Business License and 17.70 Group Homes;

<p>Applicant: Lindon City Presenting Staff: Hugh Van Wagenen</p> <p>Type of Decision: Legislative Planning Commission: Recommended approval in a 5-0 vote.</p>	<p><u>SUMMARY OF KEY ISSUES</u></p> <p>1. Whether it is in the public interest to approve the proposed amendment which would bring City Code more in line with case law.</p> <p><u>MOTION</u></p> <p>I move to (<i>approve, deny, continue</i>) ordinance amendment 2018-2-O (<i>as presented, with changes</i>).</p>
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BACKGROUND

Lindon City is constantly evaluating city code to ensure it is consistent with the current legal environment. LCC 17.70 Group Homes is in need of amendments to satisfy current law. LCC 5.42 is being added to help facilitate the licensing of Residential Facilities.

ANALYSIS

The proposed changes are recommended by Lindon City Attorney Brian Haws, and are in conformance with the most recent case law and federal and state requirements.

A summary of the changes is below:

1. Residential facilities serving the elderly and disabled, as defined by the Americans with Disability Act and Utah State Code, can have anywhere from four (4) to eight (8) residents by right and are permitted to located in residential, commercial, and mixed commercial zones.
2. A facility requesting nine (9) to sixteen (16) residents must apply for a Reasonable Accommodation Request and provide evidence as to why that number of residents is needed.
3. Facilities serving more than sixteen individuals fall under LCC 17.72 Care Facilities Overlay.
4. Applications for residential facilities, associated business license, and reasonable accommodations are approved at the staff level, similar to a building permit is approval.
5. If an application meets approval criteria, notices will be sent to surrounding properties within 300 feet indicating that the City is intends to approve the application. Application materials will be available for review and an appeal can be made to the City Administrator within 14 days of the notice if a party feels the application does not meet the criteria for approval.

PLANNING COMMISSION

In a 5-0 vote, the Commission recommended approval of the ordinance as presented by Mr. Haws. They cited the lack of discretion available to any body reviewing these applications and the difficulty of handling the approval procedure in a public meeting/hearing.

ATTACHMENTS

1. Ordinance 2018-0 Draft (shows all redline changes from existing code to be amended)
2. LCC 17.70 Residential Facilities Clean Draft
3. LCC 5.42 Residential Facility License Clean Draft

ORDINANCE NO. 2018-2-O

RESIDENTIAL FACILITIES. AN ORDINANCE AMENDING CHAPTER 17.70 AND ENACTING A NEW CHAPTER 5.42 OF THE LINDON CITY CODE REGULATING RESIDENTIAL FACILITIES AND RESIDENTIAL TREATMENT SERVICES IN LINDON CITY.

WHEREAS, the Lindon City is authorized to enact ordinances as are necessary and proper to promote the health, safety, morals, convenience, order, prosperity, and general welfare of Lindon; and

WHEREAS, the Lindon City is authorized by law to enact ordinance establishing regulations for land use; and

WHEREAS, it is in the best interest and general welfare of residents of Lindon to amend the Development Code relating to Residential Facilities to permit such facilities as permitted uses in residential zoning districts, subject to the new criteria set forth in this 17.70 and the Chapter 5.42; and

WHEREAS, the City has met the requirements for adoption of the proposed ordinance.

NOW THEREFORE, be it ordained by the City Council of Lindon City, Utah that:

SECTION I: AMENDEMNT OF SECTION 17.02.010. Section 17.02.010 of the Lindon City Code shall be amended to strike the definition of a “*Nursing home (rest home convalescent home).*”

~~“Nursing home (rest home, convalescent home)” means a home for the aged, chronically ill, or incurable persons in which three (3) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.~~

SECTION II: AMENDMENT OF CHAPTER 17.70. Chapter 17.70 of the Lindon City Code shall be amended and adopted to read as follows:

Chapter 17.70 **RESIDENTIAL CARE FACILITIES**~~GROUP~~
HOMES

- Section
- 17.70.010 Repealed and Replaced by Chapter 17.72
- 17.70.020 General Definitions
- 17.70.030 Residential Care Facility for Elderly Persons.
- 17.70.040 Transitional Victim Home (Safe House)~~Group Home for persons with a disability.~~
- 17.70.050 Procedure for Review and Approval~~approval and annual renewal of permit for a~~

- 17.70.060 ~~group home for persons with a disability.~~
 Reasonable Accommodation Juvenile Group Homes
- 17.70.070 ~~Appeal Procedure for approval and annual renewal of permit for a juvenile group home.~~
 Severability Transitional/Treatment Group Home (Halfway House)
- 17.70.080 ~~Severability Transitional/Treatment Group Home (Halfway House)~~
- 17.70.090 ~~Procedure for approval and annual renewal of permit for a Transitional/Treatment Group Home (Halfway House).~~
- 17.70.100 ~~Transitional Victim Home (Safe House).~~
- 17.70.120 ~~Denial of application for group home for the elderly, group home for persons with a disability, juvenile group home, transitional victim home—appeal.~~

Section 17.70.010 Repealed and Replaced by Chapter 17.72

Section 17.70.020 General Definitions

1. For the purposes of this ~~section~~Chapter, certain terms and words are defined and are used in this ~~T~~title in that defined context. Any words in this ~~T~~title not defined in this ~~e~~Chapter shall be as defined in Webster's Collegiate Dictionary.
2. As used in this section, the following words shall be defined as follows:

~~Elderly; Elderly shall mean a person who is 60 years or older.~~

~~Group Home; When not used in specific context in relations to a particular type of facility, group home shall include a residential facility for elderly persons, a group home for persons with a disability, a juvenile group home, a transitional/treatment group home, or a transitional victim home.~~

~~Resident; Resident shall mean persons receiving the benefit of services and facilities provided by a group home, excluding staff and care providers.~~

 - a. Disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment.
 - i. Disabled or Disability does not mean an impairment or limitation caused by the current use of a controlled substance or alcohol.
 - ii. Disabled or Disability also does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limited to, sex and pornography addictions, pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder.
 - b. DRC means the Development Review Committee.
 - c. Elderly means a person who is 60 years or older, who desires to live with other elderly persons in a group setting, but who is capable of living independently.
 - d. Reasonable Accommodation means a change in any rule, policy, practice, or service necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
 - e. Resident means persons living at and receiving the benefit of services and facilities provided by a Residential Care Facility, excluding staff and care providers.
 - f. Residential Care Facility means a Residential Care Facility for Elderly Persons, a Residential Treatment Facility for Persons with a Disability, a Residential Transition and Treatment Facility, or a Transitional Victim Home.
 - g. Residential Care Facility Business License means a business license issued pursuant to Chapter 5.42 of the Lindon City Code.
 - h. Residential Facility for Elderly Persons means a residential facility in which more than four, but not more than eight, unrelated Elderly individuals reside in a family-type arrangement or in

a care facility arrangement and have live-in (or 24 hour) care providers who are paid to assist and care for the residents.

i. Residential Facility for Elderly Persons shall not include any of the following:

1. A facility where persons being treated for alcoholism or drug abuse are placed;
2. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
3. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.

i. Residential Facility for Persons with a Disability means a residential facility in which more than four, but no more than eight, unrelated individuals, exclusive of staff, who have a Disability reside and:

- i. Where treatment services for disabilities are provided to residents such as counseling, therapy, group support and rehabilitation therapies; and
- ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities;
or;
- iii. Is licensed by the Department of Health under the applicable state code and regulations.
- iv. Residential Facility for Persons with a Disability shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.

j. Residential Transition and Treatment Facility shall mean a residential facility that provides a living environment for more than four, but not more than eight, unrelated individuals, exclusive of staff, and

- i. Is established or maintained with the intent of providing structured peer support to residents with disabilities in an effort to assist residents in acquiring and strengthening social and behavioral skills necessary to transition into successful independent living; and
- ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities;
or
- iii. Is licensed by the department of health under Utah Code Annotated title 26, chapter 21, the Health Care Facility Licensing and Inspection Act.
- iv. A Transition and Treatment Facility shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.

- k. A Transitional Victim Home means a residential support facility for up to eight individuals or four (4) families (parent with children) at any given time, and said facility is licensed by the state of Utah as a residential support facility, which provides 24-hour care and peer support to victims of abuse or crime and which arranges for or provides the necessities of life and protective services to residents who are temporarily displaced due to abuse, crime, or other emergency.

Treatment is not a necessary component of a Transitional Victim Home, but may be provided if the facility and providers are properly license by the state.

Section 17.70.030 Residential Care Facilities ~~Residential Facility for Elderly Persons~~

1. A Residential Care Facility shall be a permitted use in all residential, commercial, and mixed commercial zones.
2. A Residential Care Facility requires site plan approved by the Planning Director, which shall be given after consultation with the DRC to ensure the proposed facility complies with the provisions of this Chapter.
3. Prior to approval of the site plan, the owner/operator of a Residential Care Facility shall obtain a Residential Care Facilities Business License from Lindon City pursuant to the requirements of Chapter 5.42 of the Lindon City Code.
4. The facility shall meet all applicable building codes, safety codes, zoning regulations, and health ordinances applicable to single-family dwelling or similar dwellings; except as may be modified by the provisions of this Chapter.
5. For facilities located in residential zones, the structure shall be capable of use as a Residential Care Facility, which includes being fully handicap accessible, without structural or landscaping alterations that would change the residential character of the structure.
6. A site plan must be submitted showing any alteration of the structure or landscaping. Any alterations to the structure or landscaping must be approved by Building Department, if necessary, before a site plan is approved.
7. No Residential Care Facility shall exceed eight residents, excluding live-in staff.
8. Occupancy of the structure shall be such that each resident is provided adequate personal space. A Residential Care Facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 60 square feet per occupant in a multiple occupant bedroom and 80 square feet in a single occupant bedroom. Storage space shall not be counted. Live-in staff shall have a separate living space with a private bathroom.
9. The facility shall provide a space to serve as an administrative office for records, secretarial work and bookkeeping.
10. The facility shall meet the standard parking requirements for the zone in which it is located. However, a minimum of three off-street parking spaces shall be provided at the facility even if the standard parking requirements for the zone in which the facility is constructed would require fewer spaces for another use in that zone.
11. No portion of the facility's front and side yard setbacks shall be used to provide parking spaces as required by this section. Any use of the yard as parking space shall not change the residential character of the property.
12. In residential zones, no Residential Care Facility shall be established or maintained within such a distance of another Residential Care Facility so that the proximity of such facilities would create a clustering of residential facilities that would disrupt or affect the residential nature of the area.
13. The facility shall comply with all applicable state and federal laws, included laws related to access.

1. Residential facilities for Elderly Persons shall be a permitted use in all residential zones and require site plan approval by the Planning Commission.
2. A residential facility for elderly persons may not operate as a business (not for profits organization):
 - a. a residential facility for elderly person shall not be considered a business because a fee is charge for food or for actual and necessary costs of operation and maintenance of the facility.
3. A residential facility for elderly persons shall:
 - a. be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident;
 - b. be consistent with any existing, applicable land use ordinance affecting the desired location; and
 - c. be occupied on a 24 hour per day basis by eight or fewer elderly residents in a family-type arrangement or four or fewer elderly residents in a lie-in care provider arrangement where care providers are paid to assist and care for the residents.
4. Each residential facility for elderly persons is subject to state licensing procedures and must provide the city proof of a valid license issued by the Utah State Division of Licensing and compliance with Department of Human Services standards.
5. The residential facility shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type and for the zoning in which they are constructed.
6. The structure shall be capable of use as a residential facility for elderly persons, which includes being fully handicap accessible, without structural or landscaping alterations that would change the residential character of the structure. A site plan must be submitted showing any alteration of the structure or landscaping. Any alterations must be approved by the Planning Commission before a permit is issued.
7. Occupancy of the structure shall be such that each resident is provided adequate personal space. A residential facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for initial occupant and an additional 50 square feet for each other occupant of this space, but in no case, shall the group home have any more than eight residents in a family-type arrangement or four residents in a live-in care provider arrangement at any given time.
8. No residential facility for elderly person shall be established or maintained within three fourth of a mile (3,960 feet) of another residential facility for elderly persons, a group home for persons with a disability, juvenile group home, a transitional/treatment group home, or a transitional victim home as measured in a straight line between the closest property line of the proposed group home and the closest property line of the existing group homes identified above.
9. The facility shall provide one off-street parking space for each sleeping room, plus adequate parking for visitors and staff. In no case shall the facility have less than three off-street parking spaces.
10. The facility shall have six-foot sight obscuring fencing along the side and back yards that is constructed in a manner consistent with the residential character of the neighborhood. Such fencing shall be constructed and maintained in accordance with the Lindon City Code. The Planning Commission shall approve the style and design of any fencing before a permit is issued. A chain-link fence with slats shall not be considered sight obscuring for the purposes of this section.
11. No portion of the facility's front and side yard setbacks shall be used to provide parking spaces as required by this section without prior approval of the Planning Commission. Any use of the yard as parking space shall not change the residential character of the property.

12. ~~The facility operator shall provide the city proof of adequate insurance for the program's vehicles, hazard insurance on the home and liability insurance to cover residents and third-party individuals.~~
13. ~~The facility shall not accept any resident that would pose a direct threat to the health and safety of others in the facility or community.~~
14. ~~The facility shall comply with all applicable state and federal laws, including laws related to access.~~

Section 17.70.040 **Transitional Victim Homes (Safe Houses)**~~Group Home for Persons with Disabilities~~

A Transitional Victim Home is subject requirements of Section 17.70.030, however, documents provided pursuant to this Chapter, or pursuant to Chapter 5.42, shall be deemed protected records relating to the safety and security of the proposed facility and may not be disclosed or provided pursuant to a request under the Utah Governmental Records Access and Management Act (GRAMA).

1. ~~Group homes for persons with a disability shall be a permitted use in all residential zones, and requires site plan approval by the Planning Commission.~~
2. ~~Disabled or Disability under this section shall mean, with respect to a person, a person who has a physical or mental impairment which substantially limits one or more of that person's major life activities or has a history of having such an impairment. Disabled or Disability does not mean an impairment or limitation caused by addiction and current use of a controlled substance or alcohol. Disabled or Disability also does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limit to, sex and pornography addictions, transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders (those not resulting from physical impairments), or any other sexual behavior disorder.~~
3. ~~Each group home for person with a disability is subject to state licensing procedures and must provide the city proof of a valid license issued by the Utah State Division of Licensing and compliance with Department of Human Services standards. The group home shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type and for the zoning in which they are constructed.~~
4. ~~The structure shall be capable of use as a group home for persons with a disability, which includes being fully handicap accessible, without structural or landscaping alterations that would change the residential character of the structure. A site plan must be submitted showing any alteration of the structure or landscaping. Any alterations must be approved by the Planning Commission before a permit is issued.~~
5. ~~Occupancy of the structure shall be such that each resident is provided adequate personal space. A residential facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for initial occupant and an additional 50 square feet for each other occupant of this space, but in no case, shall the group home have any more than four (4) residents at any given time.~~
6. ~~No group home for persons with a disability shall be established or maintained within three fourths of a mile (3,960 feet) of another group home for the elderly, a group home for persons with a disability, a juvenile group home, a transitional/treatment group home, or a transitional victim home as measured in a straight line between the closest property line of the proposed group home and the closest property line of the existing group homes identified above. NO group home that has residents with disabilities related to any form of~~

- substance abuse or that have a history of past violence, sexual aggression or any offense involving a weapon or which resulted in serious bodily injury to another person shall be established within 500 feet of a licensed daycare, or public or private school as measured in a straight line between the closest property lines of the propose group home and the school/daycare lot.
8. — The facility shall provide one off-street parking space for each sleeping room, plus adequate parking for visitors and staff. In no case shall the facility have less than three off-street parking spaces.
 9. — The facility shall have six-foot site-obscuring fencing along the side and back yards that is constructed in a manner consistent with the residential character of the neighborhood. Such fencing shall be constructed and maintained in accordance with the Lindon City Code. The Planning Commission shall approve the style and design of any fencing before a permit is issued. A chain-link fence with slats shall not be considered site-obscuring for the purposes of this section.
 10. — No portion of the facility's front and side yard setbacks shall be used to provide parking spaces as required by this section without prior approval of the Planning Commission. Any use of the yard as parking space shall not change the residential character of the property.
 11. — The group home operator shall provide the city proof of adequate insurance for the program's vehicles, hazard insurance on the home, and liability insurance to cover residents and third-party individuals.
 12. — The group home operator shall provide proof that each of the residents admitted to the facility falls within the definition of disability as set forth in this section and that the disability substantially limits the resident in a major life function.
 13. — The facility shall provide training or treatment programs for residents with disabilities which are in compliance with department of Human Services standards, as set forth in the Utah Administrative Code.
 14. — Any group home for person with disability that have a history of past violence, sexual aggression or any offense involving a weapon or which resulted in serious bodily injury to another person, which is constructed within 1000 feet of a school or licensed daycare, as measured in a straight line between the closest property lines of the proposed group home and the school lot, shall provide in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities;
 - a. — 24-hour supervision for residents; and
 - b. — 24-hour security measures.
 15. — The facility shall not accept any resident that would pose a direct threat to the health and safety of others in the facility or community or who in the past has posed a threat to the health and safety of others or whose tenancy would likely create a risk of substantial physical damage to others. The owner or operator of the facility shall conduct an individualized assessment of each person desiring to become a resident of the facility to determine if such person would constitute a threat prior to allowing occupancy of the facility by such a person. The assessment shall be conducted by a licensed psychologist, social worker or other licensed individual qualified to perform such assessments. Assessments shall include, but not be limited to, consideration of such things as past criminal histories and/or violent acts of the individual, the amounts of time that have lapsed since such acts, and treatments the individual has received. Evaluations of individuals who have committed acts of sexual aggression or criminal sex acts shall also include psycho-sexual evaluations by a licensed psychiatrist or an individual holding a PhD in psychology. No individual determined to pose a risk for commission of sexual offenses, or being classified as having predatory tendencies may be accepted as a resident.

16. ~~Prior to the initial occupancy of a group home for person with disabilities and at least quarterly thereafter, the owner or operator of the group home for persons with disabilities shall certify, in a sworn affidavit, that individualized assessments have been performed on each resident and that each resident meets the requirements of this section. Upon request, the owner or operator of the group home for persons with disabilities shall provide documentation and records to verify compliance with this section.~~
17. ~~The facility shall comply with all applicable state and federal laws, including laws related to access.~~
18. ~~To ensure the safety of the residents and surrounding community, the facility operators shall develop a safety plan demonstrating adequate supervision and control of the residents. The safety plan shall be reviewed by law enforcement officials and shall be approved by the Planning Commission.~~

~~Section 17.70.50 Procedure for Review and Approval Procedure for Approval and Annual Renewal of Permit for a Group Home for Persons with Disabilities~~

1. ~~An application for a new facility provided for in this Chapter shall include a site plan and all necessary documentation showing compliance with the applicable subsection under which the application is being submitted.~~
2. ~~If the application meets all requirements of this Chapter, the Planning Director shall mail notice to owners of record within 300' of the subject property. This notice shall summarize the nature of the application, give the location of the Residential Care Facility, list the approval criteria with an indication that the City intends to issue the approval, and inform the property owners that they may request that Residential Care Facility application be reviewed by the City Administrator if they feel that the application does not meet the approval criteria.~~
 - a. ~~Any interested party requesting review by the City Administrator shall submit a written request to the City Administrator within fourteen (14) days after the date of the notice received and shall state how the application does not meet the requirements. If no written request for review is received by the City within 14 days after the date of the notice, the permit for the Residential Care Facility shall be issued.~~
 - b. ~~A request for review shall set forth the basis for the review, specifically identifying those areas of the City Code which are not met by the application.~~
 - c. ~~Upon receipt of a written request for review, the City Administrator shall set an informal hearing as soon as practically possible (but not later than 30 days after receipt of the request) in which the applicant and the party requesting the review may present evidence on the application's compliance with this Chapter. The City Administrator shall then approve, continue, or deny the application.~~
 - i. ~~The City Administrator may appoint a review officer, other than the Planning Director, to hear the request for review.~~
 - ii. ~~The party seeking the review has the burden of proving the application fails to meet the requirements of the City Code.~~
 - iii. ~~The review of factual matters shall be on the record and shall be limited to reviewing documents and information presented to the Planning Director.~~
 - iv. ~~If a request for review fails to set forth the information required under this subpart, the request may be denied summarily without a hearing.~~

- d. Notices under this Section shall not be required for Transitional Victim Homes.
3. Where, after consultation with the DRC, it is determined that the information provided by the applicant is insufficient to show compliance with the requirements of this Chapter, the application shall be denied.
4. Written notice of the decision on application shall be provided to the applicant and to any interested party who has requested notice.
1. ~~At least ten (10) days before the Planning Commission hears the application for a group home for persons with disabilities, the city shall provide written notification, either in person or by first class mail, to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closest property lines of the proposed group home and the neighboring lots.~~
2. ~~Upon review of an application for a new group home for persons with disabilities and upon determination of compliance with all of the above requirements, the application may be approved. However, where in the opinion of the Planning Commission, the information provided by the applicant is insufficient for the group home for persons with disabilities is not in compliance with the requirements of section 17.70, the application may be denied. The city shall provide written notice of approval for the proposed group to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closest property lines of the proposed group home and the neighboring lots. If the application is denied, the city shall provide the applicant written notice of the decision to deny the application. This notice of approval or denial shall be in addition to the notice required in paragraph 1 and shall be provided either in person or by first class mail within 5 days of the decision.~~
3. ~~Upon receipt of approval of the Planning Commission, the operator of the group home for persons with a disability shall be eligible to secure an annual permit from the city. Said permit shall be valid for one calendar year and shall be renewed annually subject to;~~
- ~~a. The receipt of a renewal application that shall include the information and certifications required under Section 17.70 above and a certification that none of the resident pose a threat as of the date of renewal; and~~
- ~~b. at least ten (10) days before the Planning Commission hears the renewal application, the city shall provide written notification, either in person or by first class mail, to all citizens living within or owning property within 300 feet of the site of the group home.~~
- ~~c. A finding by the Planning Commission that during the preceding year the group home had been operated in compliance with the terms of section 17.70 and any other conditions of approval.~~
4. ~~A permit to operate a group home for persons with a disability shall be;~~
- ~~a. nontransferable and shall terminate if the structure is devoted to a use other than a group home for persons with disabilities or the structure fails to comply with all building, safety, health and zoning requirements of Lindon City.~~
- ~~b. Shall terminate if at any time it is demonstrated to the Planning Commission that;~~
- ~~i. The structure fails to comply with the requirements of section 17.70; or~~
- ~~ii. The program has failed~~
- ~~to operate in accordance with the requirements of section 17.70.~~

Section 17.70.60 Reasonable Accommodation Juvenile Group Homes

1. An applicant who desires to request a reasonable accommodation from any of the requirements of this Chapter based on the Utah Fair Housing Act, the Fair Housing Amendments Act of 1988 (42 USC section 3601 et seq.), and section 504 of the Federal Rehabilitation Act of 1973 et seq., may make such a request to the Planning Director. A request for reasonable accommodation shall be in writing and shall be delivered to the Planning Director either in person or by certified U.S. mail.
2. A request for reasonable accommodation shall include the following:
 - a. The name, mailing address and phone number of the applicant;
 - b. The nature of the action for which reasonable accommodation is being sought;
 - c. The physical address of the property where the applicant requests the reasonable accommodation;
 - d. The exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;
 - e. The proposed reasonable accommodation;
 - f. A statement explaining why a reasonable accommodation is necessary;
 - g. Provide evidence demonstrating the accommodation is reasonable and does not negate or negatively impact the legitimate purposes of existing zoning regulations, notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - h. Provide evidence that absent the accommodation, one or more persons with a disability would be denied an equal opportunity to enjoy housing of their choice; and
 - i. Provide evidence that the requested accommodation will achieve equal results between persons with a disability and nondisabled persons.
3. An informal hearing shall be held no later than thirty (30) business days following the Planning Director's receipt of the applicant's request for reasonable accommodation.
4. Within fourteen (14) business days of the informal hearing, the Planning Director shall make written findings and issue a decision.
5. If it is determined that a reasonable accommodation must be provided, the Planning Director shall include the accommodations to be made in the notice required Section 17.70.050(2).

1. ~~A juvenile group home means a 24 hour group living environment for no more than four adolescents under the age of 18, unrelated to an owner or operator that offers room, board or specialized services to residents.~~
2. ~~A juvenile group home shall be a conditional use in MC< CG< HI< HI< and R&B zones.~~
3. ~~The juvenile group home shall be subject to state licensing procedures and must obtain a valid license issued by the Utah State Division of Licensing and the Department of Human Services. To protect the health and safety of the residents, an applicant must provide sufficient proof of compliance with all applicable local and state codes and/or licensing requirements, and provide a written plan demonstrating both the physical and financial ability to bring the home up to code and the ability to operate the program in compliance with the state regulations; including the Department of Human Services' categorical standards for a residential treatment program, and the Utah Department of Youth Correction's standards for a residential, non-secure community program before an application can be granted, as contained in the Utah Administrative Code Rule Book.~~

4. The group home shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type and for the zoning in which they are constructed.
5. A site plan must be submitted showing all structures and landscaping and must be approved by the Planning Commission before a conditional use permit is approved.
6. The operator of the facility shall provide sufficient written proof of:
 - a. a security plan satisfactory to local law enforcement authorities;
 - b. 24 hour supervision for residents; and
 - c. other 24 hour security measures.
7. Occupancy of the structure shall be such that each resident is provided adequate personal space. A residential facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for initial occupant and an additional 50 square feet for each other occupant of the space, but in no case, shall the group home have any more than four (4) residents at any given time.
8. No juvenile group home shall be established or maintained within three fourths of a mile (3,960 feet) of another group home for the elderly, a group home for persons with a disability, a juvenile group home, a transitional/treatment group home, or a transitional victim home as measured in a straight line between the closest property line of the proposed group home and the closest property line of the existing group homes. No juvenile group home shall be established or maintained within 500 feet of a licensed daycare, or public or private school as measured in a straight line between the closest property lines of the proposed group home and the school/daycare lot.
9. The facility shall meet the standard parking requirements for the zone in which it is located. However, a minimum of three off-street parking spaces shall be provided at the facility even if the standard parking requirements for the zone in which the facility is constructed would require fewer spaces for another use in that zone.
10. The facility shall have six-foot sight-obscuring fencing along the side and back yards that are constructed and maintained in accordance with the Lindon City Code. The Planning Commission shall approve the style and design of any fencing before a use permit is issued. A chain link fence with slats shall not be considered sight-obscuring for purposes of this section.
11. The group home operator shall provide the city proof of adequate insurance for the program's vehicles, hazard insurance on the home, and liability insurance to cover residents and third-party individuals.
12. No person currently being treated for alcoholism or drug addiction, kleptomania, pyromania, or any sexually related addiction or disorder, including, but not limited to, sex and pornography addictions, transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders (those not resulting from physical impairments), or any other sexual behavior, shall be placed in a juvenile group home.
13. Placement in a juvenile group home may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
14. The facility shall not accept any resident that could pose a threat to the health and safety of others in the facility or community or whose tenancy would likely create a risk of substantial physical damage to others. The owner or operator of the facility shall conduct an individualized assessment of each person desiring to become a resident of the facility to determine if such person would constitute a threat prior to allowing occupancy of the facility by such person. The assessment shall be conducted by a licensed psychologist, social worker or other licensed individual qualified to perform such assessments. Assessments shall include, but

~~not be limited to, consideration of such things as past criminal histories and/or violent acts of the individual, the amount of time that has lapsed since such acts, and treatments the individual has received. Evaluations of individuals who have committed acts of sexual aggression or criminal sex acts shall also include psycho-sexual evaluations by a licensed psychiatrist or an individual holding a PhD in psychology. No individual determined to pose a risk for commission of any sexual offenses, or being classified as having predatory tendencies may be accepted as a resident.~~

- ~~15. — Prior to initial occupancy of a juvenile group home and at least quarterly thereafter, the owner or operator of the juvenile group home shall certify, in a sworn affidavit, that individualized assessments have been performed on each resident and that each resident meets the requirement of this section. Upon request, the owner or operator of the juvenile group home shall provide documentation and records to verify compliance with this section.~~
- ~~16. — The facility shall comply with all applicable state and federal laws, including laws related to access.~~

Section 17.70.70 Appeal Procedures for approval and annual renewal of permit for a juvenile group home

1. An interested party may appeal the decision of the Planning Director to the City Administrator.
2. Notice of an appeal shall be filed with the City Administrator within fourteen (14) days of the Planning Director's decision.
3. The notice of appeal shall identify the appellant and set forth the grounds for the appeal.
 - a. If a notice fails to state the grounds for the appeal, the appeal may be summarily denied.
 - b. An appellant must present every theory of relief it is claiming to preserve that theory for review in the District Court.
4. The City Administrator may hear the appeal or may appoint an appeals officer to hear the appeal.
5. Upon receipt of an appeal, the City Administrator or appeal officer shall set an informal hearing as soon as practically possible (but not later than thirty (30) days after receipt of the request) in which the appellant and interested the parties may address the Planning Director's decision.
6. The appellant has the burden of proving the Planning Director's decision was made in error.
7. The City Administrator or appeal officer's review of factual matters shall be on the record and shall be limited to reviewing documents and information presented to the Planning Director.
8. Any decision by the City Administrator or appeal officer on an appeal of a Residential Care Facility shall:
 - a. Be issued in writing within fourteen (14) days of the meeting at which the appeal was heard;
 - b. Set forth the findings of the City Administrator or designated appeal officer; and;
 - c. Be delivered in person or by first-class mail to the applicant and/or appellant.
9. A party adversely affected by the decision of the City Administrator or appeal officer may file a petition for review of the decision with the District Court within thirty (30) days after the decision is final.

10. A party wishing to challenge to decision of the City Administrator or review officer, on a request for review under Section 17.70.050(2) does not need to file an appeal of that decision, but may file a petition for review with the District Court within thirty (30) days after the decision on the request for review is final.

1. ~~At least ten (10) days before the Planning Commission hears the application for the conditional use for a juvenile group home, the City shall provide written notification, either in person or by first class mail, to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closes property lines of the proposed group home and the neighboring lots.~~
2. ~~Upon review of an application for a juvenile group home and upon determination of compliance with all of the above requirements the application may be approved. However, where, in the opinion of the Planning Commission, the information provided by the applicant is insufficient or the juvenile group home is not in compliance with the requirements of section 17.70, the application may be denied. The city shall provide written notice of approval for the proposed group home to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closest property lines of the proposed group home and the neighboring lots. If the application is denied, the city shall provide the applicant written notice of the decision to deny the application. This notice of approval or denial shall be in addition to the notice required in paragraph 1 and shall be provided either in person or by first class mail within 5 days of the decision.~~
3. ~~Upon receipt of approval of the Planning Commission, the operator of the juvenile group home shall be eligible to secure an annual group housing permit from the city. Said permit shall be valid for one calendar year and shall be renewed annually subject to:

 - a. ~~At least ten (10) days before the Planning Commission hears the renewal application, the city shall provide written notification of the renewal application, either in person or by first class mail, to all citizens living within or owning property within 300 feet of the site of the group home.~~
 - b. ~~A finding by the Planning Commission that during the preceding year the group home had been operated in compliance with all of the terms of section 17.70; or~~
 - c. ~~the program has failed to operate in accordance with state regulation or the requirements of section 17.70.~~~~

Section 17.70.80 ~~Severability Transitional/Treatment Group Home (halfway house).~~

If any provision of this chapter is declared invalid by a court of competent jurisdiction the remainder of this chapter shall not be affected

1. ~~A transitional treatment group home means a 24-hour group facility that provides a living environment for no more than four unrelated persons, exclusive of staff, and is licensed by the state of Utah, and that provide 24-hour staff supervision and peer support structure to help applicants acquire and strengthen social and behavioral skills necessary to live independently in the community. The definition of a Transitional/Treatment Group Home shall be interpreted to include facilities that provide counseling and rehabilitation therapy treatments as well as facilities that do not provide such treatment services.~~
2. ~~A transitional/treatment group home shall be a conditional use in MC, CG, HI, LI, R&B zones.~~
3. ~~The transitional/Treatment group home shall be subject to state licensing procedures and must obtain a valid license issued by the~~

- Utah State Division of Licensing and the Department of Human Services. To protect the health and safety of residents, an applicant must provide sufficient proof of compliance with all applicable local and state codes and/or licensing requirements, and provide a written plan demonstrating both the physical and financial ability to bring the home up to code and the ability to operate the program in compliance with state regulations; including the Department of Human Services categorical standards for a residential treatment program before an application can be granted, as contained in the Utah Administrative Code Rule.
4. The group home shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type and for the zoning in which they are constructed.
 5. A site plan must be submitted showing all structure and landscaping and must be approved by the Planning Commission before a condition use permit is approved.
 6. The operator of the facility shall provide sufficient written proof of:
 - a. a security plan satisfactory to local law enforcement authorities;
 - b. 24 hour supervision for residents; and
 - c. other 24 hour security measures.
 7. Occupancy of the structure shall be such that each resident is provided adequate personal space. A residential facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at 74 square feet for initial occupant and an additional 50 square feet for each other occupant of this space, but in no case, shall the group home have any more than four (4) residents at any given time.
 8. No transitional/treatment group home shall be established or maintained within three fourths of a mile (3,960 feet) of another transitional/treatment group home, group home for the elderly, a group home for person with a disability, a juvenile group home, or a transitional victim home as measured in a straight line between the closest property line of the proposed group home and the closest property line of the existing group homes. No transitional/treatment group home shall be established or maintained within 500 feet of a licensed daycare, or public or private school as measured in a straight line between the closest property lines of the proposed group home and the school/ daycare lot.
 9. The facility shall meet the standard parking requirements for the zone in which it is located. However, a minimum of three off street parking spaces shall be provided at the facility even if the standard parking requirements for the zone in which the facility is constructed would require fewer spaces for another use in that zone.
 11. The group home operator shall provide the city proof of adequate insurance for the program's vehicles, hazard insurance on the home, and liability insurance to cover residents and third-party individuals.
 12. No person currently being treated for alcoholism or drug addiction, kleptomania, pyromania, or any sexually related addiction or disorder, including, but not limited to, sex and pornography addictions, transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders (those not resulting from physical impairments), or any other sexual behavior disorders, shall be placed in a transitional treatment home.
 13. Placement in a transitional treatment group home may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.
 14. The facility shall not accept any resident that could pose a threat to the health and safety of others in the facility or community.
 15. The facility shall comply with all applicable state and federal laws, including laws related to access.
 16. To ensure the safety of the residents, the facility shall be equipped with an automatic fire

extinguishing system.

Section 17.70.90 Procedure for approval and annual renewal of permit for a transitional/treatment group home.

1. — At least ten (10) days before the Planning Commission hears the application for the conditional use for a transitional/treatment group home, the city shall provide written notification, either in person or by first class mail, to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closes property lines of the proposed group home and the neighboring lots.
2. — Upon review of an application for a new transitional/treatment group home and determination of compliance with all of the above requirements the application may be approved. However, where, in the opinion of the Planning Commission, the information provided by the applicant is insufficient or the transitional/treatment group home is not in compliance with the requirements of section 17.70, the application may be denied. The city shall provide written notice of approval for the proposed group home to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closes property lines of the proposed group home and the neighboring lots. If the application is denied, the city shall provide the applicant written notice of the decision to deny the application. This notice of approval or denial shall be in addition to the notice required in paragraph 1 and shall be provided either in person or by first class mail within 5 days of the decision.
3. — Upon receipt of approval of the Planning Commission, the operator of the transitional/treatment group home shall be eligible to secure an annual group housing permit from the city. Said permit shall be valid for one calendar year and shall be renewed annually subject to:
 - a. — At least ten (10) days before the Planning Commission hears the renewal application, the city shall provide written notification of the renewal application, either in person or by first class mail, to all citizens living within or owning property within 300 feet of the site of the group home.
 - b. — A finding by the Planning Commission that during the preceding year the group home had been operated in compliance with all of the terms of section 17.70 and any other conditions of approval previously required.
4. — A permit to operate a transitional/treatment group home shall terminate if at any time it is demonstrated to the Planning Commission that:
 - a. — the structure is devoted to a use other than as a transitional/treatment group home;
 - b. — the structure fails to comply with the requirements of section 17.70; or
 - c. — the program has failed to operate in accordance with state regulations or the requirements of section 17.70.

Section 17.70.100 — Transitional Victim Home (Safe House).

1. — A Transitional Victim Home means a residential support facility for up to four (4) families (single individual or parent with children) at any given time, and said facility is licensed by the state of Utah as a residential support facility, which provides 24-hour care and peer support to victims of abuse or crime and which arranges for or provides the necessities of life and protective services to residents who are temporarily displaced due to abuse, crime, or other emergency. Treatment is not a necessary component of a Transitional Victim Home, but may be provided if the facility and providers are properly license by the state.
2. — A Transitional Victim Home shall be a permitted use in all residential zones. However, due to the sensitive nature of the services provided to victims of abuse and crime and due to the need to keep the location of such home as confidential and private as possible, Transitional victim homes shall not be required to secure site plan approval from the Planning

- Commission as is required of other group homes, but shall receive site plan approval from the Development Review Committee (DRC).
3. ~~Each transitional victim home is subject to state licensing procedures and must provide the city proof of a valid license issued by the Utah State Division of Licensing and compliance with Department of Human Services standards.~~
 4. ~~The transitional victim home shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type and for the zoning in which they are constructed.~~
 5. ~~The transitional victim home shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type and for the zoning in which they are constructed.~~
 6. ~~The structure shall be capable of use as a transitional victim home without structural or landscaping alterations that would change the residential character of the structure. A site plan must be submitted showing any alteration of the structure or landscaping. Any alterations must be approved by the DRC before a permit is issued.~~
 7. ~~Occupancy of the structure shall be such that each resident is provided adequate personal space. A residential facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 74 square feet for the initial occupant and an additional 50 square feet for each other occupant of this space, but in no case, shall the group home have any more than four (4) families (single individual or parent with children) at any given time.~~
 8. ~~No transitional victim home shall be established or maintained within three fourths of a mile (3,960 feet) of another transitional victim home, residential facility for elderly person, a group home for person with a disability, juvenile group home, or a transitional/treatment group home as measured in a straight line between the closes property line of the proposed transitional victim home and the closest property line of the existing group home.~~
 9. ~~The facility shall provide one off-street parking space for each sleeping room, plus adequate parking for visitors and staff. In no case shall the facility provide less than three off-street parking spaces.~~
 10. ~~The transitional victim home shall have six-foot sight obscuring fencing along the side and back yards that is constructed in a manner consistent with the residential character of the neighborhood. Such fencing shall be constructed and maintained in accordance with the Lindon City Code. The DRC shall approve the style and design of any fencing before a permit is issued. A chain-link fence with slats shall not be considered sight obscuring for the purposes of this section.~~
 11. ~~No portion of the transitional victim home's front and side yard setbacks shall be used to provide parking spaces as required by this section without prior approval of the DRC. Any use of the yard as parking space shall not change the residential character of the property.~~
 12. ~~The transitional victim home operator shall provide the city proof of adequate insurance for the program's vehicles, hazard insurance for on the home, and liability insurance to cover residents and third-party individuals.~~
 13. ~~The transitional victim home shall not accept any resident that would pose a direct threat to the health and safety of others in the facility or community.~~
 14. ~~The transitional victim home shall comply with all applicable state and federal laws, including laws related to access.~~
 15. ~~To ensure the safety of residents, the transitional victim home shall be equipped with an automatic fire extinguishing system.~~

Section 17.70.120 — Denial of application for group home for elderly, group home for persons with a disability, juvenile group home, transitional/treatment group home, transitional victim home – appeal.

1. Upon the determination of an application for a group home for elderly, group home for person with a disability, juvenile group home, transitional/treatment group home, or transitional victim home, the applicant or an interested party may appeal the decision of the Planning Commission directly to the City Council.
2. Notice of appeal shall be filed with the City Administrator within 30 days of the Planning Commission's decision. The City Council may not act upon the appeal of a Planning Commission decision until notice of the hearing as required by the city code and state law is properly given.
3. At least ten (10) days before the City Council hears the appeal of the denial of the application for the group home, the city shall provide written notification of the appeal, either in person or by first class mail, to all citizens living within or owning property within 750 feet of the proposed site of the group home as measured in a straight line between the closest property lines of the proposed group home and the neighboring lots.
4. Any decision by the City Council on an appeal of a denial of an application for a group home for elderly, group home for person with a disability, juvenile group home, transitional/treatment group home, or transitional victim home shall:
 - a. Be issued in writing within 10 days of the City Council meeting at which the appeal was heard; and
 - b. Shall set forth the findings of the City Council; and
 Shall be delivered in person or by first class mail to the applicant and/or appellant.

SECTION III: ENACTMENT OF CHAPTER 5.42 RESIDENTIAL CARE FACILITY BUSINESS LICENSES. The Lindon City Code shall be amended so as to enact and adopt a new chapter 5.42, entitled Residential Care Facility Business Licenses, which chapter shall read as follows:

Chapter 5.42

RESIDENTIAL CARE FACILITY BUSINESS LICENSE

Sections:

- 5.42.010 Purpose
- 5.42.020 Definitions
- 5.42.030 License Required
- 5.42.040 Temporary Residential Care Facility Business License
- 5.42.050 Issuance of Residential Care Facility Business License
- 5.42.060 Fee - Purpose-Amount
- 5.42.070 State and/or Federal Licensing
- 5.42.080 Insurance
- 5.42.090 Safety Requirements
- 5.42.100 Individualized Assessments
- 5.42.110 Services for Non-Resident Clients Prohibited in Residential Zone
- 5.42.120 Residential Facility for Elderly Persons
- 5.42.130 Reasonable Accommodation

5.42.140	Residential Care Facility Business License Not Transferable –Termination
5.42.150	Continued Compliance
5.42.160	Appeal
5.42.170	Severability

Section 5.42.010: Purpose

1. The purpose of this Chapter is to establish licensing requirements that are not contrary to law for residential facilities which provide services and support to residents in order to promote the health, safety, morals and general welfare of the public.
2. It is the intent of Lindon City to comply with the Utah Fair Housing Act, the Fair Housing Amendments Act of 1988 (42 USC section 3601 et seq.), and section 504 of the Federal Rehabilitation Act of 1973 et seq.
3. A Residential Care Facility for Elderly Persons, a Residential Facility for Persons with a Disability, a Residential Transition and Treatment Facility, and Transitional Victim Homes, are permitted uses in all residential, commercial, and mixed commercial zones within the City.
4. It is the intent of the City, to the extent allowed by law, to maintain the residential feel of a residential neighborhood consistent with the general plan.

Section 5.42.020 Definitions

1. For the purposes of this Chapter, certain terms and words are defined and are used in this Title in that defined context. Any words in this Title not defined in this Chapter shall be as defined in Webster’s Collegiate Dictionary.
2. As used in this section, the following words shall be defined as follows:
 - a. Disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment.
 - i. Disabled or Disability does not mean an impairment or limitation caused by the current use of a controlled substance or alcohol.
 - ii. Disabled or Disability also does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limited to, sex and pornography addictions, pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder.
 - b. DRC means the Development Review Committee.
 - c. Elderly means a person who is 60 years or older, who desires to live with other elderly persons in a group setting, but who is capable of living independently.
 - d. Reasonable Accommodation means a change in any rule, policy, practice, or service necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
 - e. Resident means mean persons living at and receiving the benefit of services and facilities provided by a Residential Care Facility, excluding staff and care providers.
 - f. Residential Care Facility means a Residential Care Facility for Elderly Persons, a Residential Treatment Facility for Persons with a Disability, a Residential Transition and Treatment Facility, and a Transitional Victim Home.
 - g. Residential Care Facility Business License means a business license issued pursuant to this Chapter.

- h. Residential Facility for Elderly Persons means a residential facility in which more than four, but not more than eight, unrelated Elderly individuals reside in a family-type arrangement or in a care facility arrangement and have live-in care providers who are paid to assist and care for the residents.
- i. Residential Facility for Elderly Persons shall not include any of the following:
- i. A facility where persons being treated for alcoholism or drug abuse are placed;
 - ii. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 - iii. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended; or
 - iv. A facility which is a residential facility for persons with a disability.
- j. Residential Facility for Persons with a Disability means a residential facility in which more than four, but no more than eight, unrelated individuals, exclusive of staff, who have a Disability reside and:
- i. Where treatment services for disabilities are provided to residents such as counseling, therapy, group support and rehabilitation therapies; and
 - ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities; or;
 - iii. Is licensed by the department of health under Utah Code.
 - iv. Residential Facility for Persons with a Disability shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.
- k. Residential Transition and Treatment Facility means a residential facility that provides a living environment for more than four, but not more than eight, unrelated individuals, exclusive of staff, and
- i. Is established or maintained with the intent of providing structured peer support to residents with disabilities in an effort to assist residents in acquiring and strengthening social and behavioral skills necessary to transition into successful independent living; and
 - ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities; or
 - iii. Is licensed by the department of health under Utah Code Annotated title 26, chapter 21, the Health Care Facility Licensing and Inspection Act;
 - iv. Residential Transitional and Treatment Facility shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;

2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended
 1. A Transitional Victim Home means a residential support facility for up to eight individuals or four (4) families (parent with children) at any given time, and said facility is licensed by the state of Utah as a residential support facility, which provides 24-hour care and peer support to victims of abuse or crime and which arranges for or provides the necessities of life and protective services to residents who are temporarily displaced due to abuse, crime, or other emergency.
 - i. Treatment is not a necessary component of a Transitional Victim Home, but may be provided if the facility and providers are properly license by the state.

Section 5.42.030 License Required

It is unlawful for any person, firm, or corporation to establish and/or maintain a Residential Care Facility within the City without first securing approval for such use in accordance with the applicable provisions of the Lindon City Code and obtaining a Residential Care Facility Business License

Section 5.42.040 Temporary Residential Care Facility Business License

Lindon City shall issue a Temporary Residential Care Facility Business License to an applicant who has satisfied the terms, conditions, and regulations of this Chapter and the Chapter 17.70 governing Residential Care Facilities, including site plan and zoning approval from the Planning Director and the Building Department, if necessary, with the exception of Section 5.42.070 State and/or Federal Licensing. A Temporary Residential Care Facility Business License shall expire 90 days from the date of issuance or may be revoked immediately upon evidence that an applicant's request or application for state and/or federal licensing and approvals for the specific type of facility has been denied, withdrawn, or revoked.

Section 5.42.050 Issuance of Residential Care Facility Business License

Lindon City shall issue a Residential Care Facility Business License to an applicant who has satisfied all of the terms, conditions, and regulations of this Chapter and the Lindon City Code, including site plan and zoning approval from the [DRCPlanning Director](#), and the Building Department, if necessary, including the receipt of a State and/or Federal License.

Section 5.42.060 Fee - Purpose-Amount

For purpose of regulation and to defray the cost of municipal services and administration, an annual Residential Care Facility Business License fee in the amount set forth in the Lindon City Fee Schedule and shall be levied and assessed for each Residential Care Facility for each calendar year or portion thereof.

Section 5.42.070 State and/or Federal Licensing

An application for a Residential Care Facility Business License must be accompanied by proof that an applicant has obtained all necessary state and/or federal licensing and approvals for the specific type of facility the applicant is proposing to establish or maintain.

Section 5.42.080 Insurance

An applicant shall provide proof of adequate general liability insurance for the program's vehicles, hazard insurance on the home, and general liability insurance to cover residents and third-party individuals.

Section 5.42.090 Safety Requirements

1. The owner or operator of a Residential Care Facility shall provide to the City Recorder, no less than 10 days prior to the placement of a resident within the facility, a notarized statement as follows:
 - a. That the facility does not accept any resident that would pose a direct threat to the health and safety of others in the facility or community or who in the past has posed a threat to the health and safety of others or whose tenancy would likely create a risk of substantial physical damage to others;
 - b. That the placement of each individual is strictly voluntary on the part of the individual or his/her legal guardian or conservator, and that it is not part of, or in lieu of, any confinement, rehabilitation or treatment in a correctional facility; and
 - c. That the certified agent agrees to promptly investigate any and all allegations of which it is or may become aware, relating to acts of an individual residing in or employed by such facility as may constitute a violation of the provisions of this section; and, if found to be substantiated, to take such action as may be reasonable and proper under the circumstances to correct/remedy the violation and any harm or damage resulting therefrom, and to protect the person and property of such individual and others residing or employed in and near the residential facility.
2. The written statement required above shall be accompanied by evidence that the Residential Care Facility has adopted a process for individualized assessments consistent with the requirements of § 5.42.100 of this Chapter.
3. Any Residential Care Facility that provides services to residents who have any past history of sexual assault, sexual aggression, or any offense involving a weapon, or are known to have acted in a manner which has resulted in serious bodily injury to another person, shall provide proof of a security plan that is satisfactory to the Lindon City Chief of Police, and which at a minimum provides 24-hour supervision for residents and 24-hour security measures and which complies with the rules and requirements established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities.
4. The City shall not issue any Residential Care Facility Business License to any Residential Care Facility that provides services to residents who have any past history of sexual assault, sexual aggression, or any offense involving a weapon, or which resulted in serious bodily injury to another person and which is proposed to be constructed and or operated within 1000 feet of a public or private school or licensed daycare as measured in a straight line between the closest property lines of the proposed facility and the school or daycare.

Section 5.42.100 Individualized Assessments

1. Each candidate for residency will be evaluated to determine if such person would constitute a threat prior to allowing occupancy of the facility by such a person. Such assessments shall be conducted by a licensed psychologist, social worker or other licensed individual qualified to perform such assessments.

2. Assessments shall include, but not be limited to, consideration for such things as past criminal histories and/or violent acts of the individual, the amounts of time that have lapsed since such acts, and treatments the individual has received. Evaluations of individuals who have committed acts of sexual aggression or criminal sex acts shall also include psycho-sexual evaluations by a licensed psychiatrist or an individual holding a PhD in psychology. No individual determined to pose a risk for commission of sexual offenses, or being classified as having predatory tendencies may be accepted as a resident.
3. Within seven (7) days of opening any Residential Facility, and at least quarterly thereafter, the person or entity licensed, shall certify in a sworn affidavit to the city recorder the following:
 - a. Each Resident has been evaluated by a licensed psychologist, social worker or other licensed individual qualified to perform such assessments required by this section;
 - b. That based on the individualized assessment performed for each resident, no person does, or will, reside in the facility whose tenancy would likely constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others; and
 - c. That all residents in the facility have been or are currently admitted strictly on a voluntary basis and not a part of, or in lieu of, confinement or treatment in a correctional facility nor as a condition of parole.

Section 5.42.110 Services for Non-Resident Clients Prohibited in Residential Zones

A Residential Care Facility located in a residential zone may not provide counseling, therapy, or other addiction recovery services at the facility for individuals who are not residents of that facility.

Section 5.42.120 Residential Facility for Elderly Persons

A Residential Care Facility for Elderly Persons shall comply with the requirement of the Chapter ~~except~~ individual assessments under Section 5.42.100 are not required. However, an applicant shall still be required to provide the required notarized statement affirming the facility does not accept any residents that would pose a direct threat to the health and safety of others in the facility or community or who in the past have posed a threat to the health and safety of others or whose tenancy would likely create a risk of substantial physical damage to others.

Section 5.42.130 Reasonable Accommodation

1. An applicant who desires to request a reasonable accommodation from any of the requirements of this Chapter based on the Utah Fair Housing Act, the Fair Housing Amendments Act of 1988 (42 USC section 3601 et seq.), and section 504 of the Federal Rehabilitation Act of 1973 et seq., shall have the right make such request to the City Recorder.
2. A request for reasonable accommodation shall include the following:
 - a. The name, mailing address and phone number of the applicant;
 - b. The nature of the action for which reasonable accommodation is being sought;
 - c. The physical address of the property where the applicant requests the reasonable accommodation;

- d. The exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;
 - e. The proposed reasonable accommodation;
 - f. A statement explaining why a reasonable accommodation is necessary;
 - g. Provide evidence demonstrating the accommodation is reasonable and does not negate or negatively impact the legitimate purposes of existing zoning regulations, notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - h. Provide evidence that absent the accommodation, one or more persons with a disability would be denied an equal opportunity to enjoy housing of their choice; and
 - i. Provide evidence that the requested accommodation will achieve equal results between persons with a disability and nondisabled persons.
3. The City shall hold an informal hearing shall be held no later than thirty (30) business days following the city's receipt of the applicant's request for reasonable accommodation.
 4. Within fourteen (14) business days of the hearing the applicant shall be given written decision on the request for reasonable accommodation.

Section 5.42.140 Residential Care Facility Business License Not Transferable – Termination

1. A Residential Care Facility Business License is nontransferable and shall terminate upon the occurrence of any of the following:
 - a. The operations of Residential Care Facility cease for more than 30 days;
 - b. The structure is devoted to a use other than a Residential Care Facility for any period of time;
 - b. The structure fails to comply with all building, safety, health, and zoning requirement of the Lindon City Code.
 - c. The state and/or federal licenses upon which Residential Care Facility Business License is issued, lapse or are rescinded or revoked the issuing agency.
 - d. The owner or operator who originally obtained the Residential Care Facility Business License ~~salessells~~ or transfers operations of the facility to a third party.
 - i. A third party who purchases or assumes the operations of an existing and currently operating Residential Care Facility shall not be required to resubmit site plans or obtain approval from the ~~DRC~~Planning Director as set forth in Chapter 17.70, but shall be required to apply for a new Residential Care Facility Business License.

Section 5.42.150 Continued Compliance

1. The owner or operator of a Residential Care Facility shall be required to maintain the facility so as to be in continual compliance with the provisions of this chapter and upon ~~request~~ shall provide written proof of such to the City Recorder.
2. If at any time the owner or operator of a Residential Care Facility is unable to provide proof of continued compliance with the applicable provisions of the Chapter, the Residential Care Facility Business License may be terminated.
3. Upon determining that a group home is no longer in compliance with the applicable provisions of this Chapter, the follow provision will apply:

- a. Lindon City shall provide written notice of the non-compliance to the owner and operator of the Residential Treatment Facility.
- b. Upon receipt of a notice of non-compliance the owner or operator of the facility must bring the facility and its operations back into compliance within 30 days of receipt of the notice.
- c. If the owner or operator of the facility fails to provide proof that the facility and its operations have been brought back into compliance within of 30 days the notice, the Residential Care Facility Business License shall be revoked and withdrawn and Residential Care Facility shall cease operations.

Section 5.42.160 Appeal

1. An applicant or license holder who is denied a Residential Care Facility Business License or request for reasonable accommodation under this Chapter may appeal the decision to the City Administrator.
2. Notice of an appeal shall be filed with the City Administrator within 14 days of the decision denying or revoking the Residential Care Facility Business License.
3. The notice of appeal shall identify the appellant and set forth the grounds for the appeal.
 - a. If a notice fails to state the grounds for the appeal, the appeal may be summarily denied.
 - b. An appellant must present every theory of relief it is claiming to preserve that theory for review in the District Court.
4. The City Administrator may hear the appeal or may appoint an appeals officer to hear the appeal.
5. Upon receipt of an appeal, the City Administrator or appeal officer shall set an informal hearing as soon as practically possible (but not later than 30 days after receipt of the request) in which the appellant and interested the parties may address the City's decision.
6. The appellant has the burden of proving the City's decision was made in error.
7. The City Administrator or appeal officer's shall review factual matters on the record and shall be limited to reviewing documents and information presented to the City during the application process.
8. Any decision by the City Administrator or appeal officer on an appeal of a Residential Care Facility shall;
 - a. Be issued in writing within fourteen (14) days of the meeting at which the appeal was heard;
 - b. Set forth the findings of the City Administrator or designated appeal officer; and;
 - c. Be delivered in person or by first-class mail to the applicant and/or appellant.
9. A party adversely affected by the decision of the City Administrator or appeal officer may file a petition for review of the decision with the District Court within thirty (30) days after the decision is final.

Section 5.42.170 Severability

If any provision of this Chapter is declared invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

SECTION IV, AMENDMENT OF SECTION 17.72.010; Section 17.72.010 of the Lindon City Code shall be amended and adopted to read as follows:

17.72.010 Definitions

“Care Facility” means assisted living centers, rest homes, nursing homes, convalescent facilities, retirement centers, and other facilities of this type and nature, ~~and shall be defined as facilities which provide assistance with daily living activities for the elderly and other protected classes (as per the Federal Fair Housing Act and the Americans with Disabilities Act) which include food preparation (common kitchen facility), bathing, dressing and personal hygiene; supervision of self-administration of medications; laundry service including personal laundry; housekeeping; and 24-hour staffing. Such facilities shall be required to be licensed by the State of Utah and conform to the requirements of the Division of Human Services or successor agency as Type I or Type II facilities intended for the occupancy by two or more persons.~~ For the purposes of this section, Lindon City shall classify the facilities as follows;

- a. Small facility shall provide care for ~~more than eight (8), up three (3)~~ to sixteen (16) qualifying residents.
- b. Large facility shall provide care for more than sixteen (16) qualifying residents, but not more than ninety (90) qualifying residents. A large facility may also accommodate up to fifteen (15) non-qualifying residents. A non-qualifying resident must reside in the same room as a qualifying resident to whom he or she is related.

“Non-qualifying resident” means an individual who is not a qualifying resident as defined in this Chapter, but is a spouse or immediate relative of a qualifying resident.

“Qualifying resident” means an elderly individual, or an individual who is a member of a protected class as defined by the Federal Fair Housing Act and the American with Disabilities Act, who requires assistance with daily living activities.

For the purposes of this section all assisted living centers, rest homes, nursing homes, elderly group care facilities, convalescent facilities, and other facilities of this type and nature, shall be referred to as “care facilities” or “facility.”

This section shall not apply to ~~group homes for elderly, group homes for person with a disability, or juvenile group homes, transitional victim homes,~~ Residential Care Facilities as regulated in ~~Chapter Section~~ 17.70. This section shall also not apply to a family member caring for other family members where there is a relationship of child, sibling, parent, grandparent, aunt, uncle, niece, or nephew.

SECTION V EFFECTIVE DATE: This Ordinance shall take effect immediately upon its passage and posting as provided by law.

PASSED AND ADOPTED BY THE LINDON CITY COUNCIL, UTAH COUNTY STATE OF UTAH, ON THIS ____ DAY OF _____, 2018.

LINDON CITY:

MAYOR JEFF ACERSON

ATTEST:

KATHY MOOSMAN
City Recorder

Chapter 17.70 RESIDENTIAL CARE FACILITIES

Sections:

17.70.010	Repealed and Replaced by Chapter 17.72
17.70.020	General Definitions
17.70.030	Residential Care Facilities
17.70.040	Transitional Victim Home (Safe House)
17.70.050	Procedure for Review and Approval
17.70.060	Reasonable Accommodation
17.70.070	Denial of Application – Appeal
17.70.080	Severability

Section 17.70.010 Repealed and Replaced by Chapter 17.72

Section 17.70.020 General Definitions

1. For the purposes of this Chapter, certain terms and words are defined and are used in this Title in that defined context. Any words in this Title not defined in this Chapter shall be as defined in Webster's Collegiate Dictionary.
2. As used in this section, the following words shall be defined as follows:
 - a. Disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment.
 - i. Disabled or Disability does not mean an impairment or limitation caused by the current use of a controlled substance or alcohol.
 - ii. Disabled or Disability also does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limited to, sex and pornography addictions, pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder.
 - b. DRC means the Development Review Committee.
 - c. Elderly means a person who is 60 years or older, who desires to live with other elderly persons in a group setting, but who is capable of living independently.
 - d. Reasonable Accommodation means a change in any rule, policy, practice, or service necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
 - e. Resident means persons living at and receiving the benefit of services and facilities provided by a Residential Care Facility, excluding staff and care providers.
 - f. Residential Care Facility means a Residential Care Facility for Elderly Persons, a Residential Treatment Facility for Persons with a Disability, a Residential Transition and Treatment Facility, or a Transitional Victim Home
 - g. Residential Care Facility Business License means a business license issued pursuant to Chapter 5.42 of the Lindon City Code.
 - h. Residential Facility for Elderly Persons means a residential facility in which more than four, but not more than eight, unrelated Elderly individuals reside in a family-type arrangement or in a care facility arrangement and have live-in (or 24 hour) care providers who are paid to assist and care for the residents.
 - i. Residential Facility for Elderly Persons shall not include any of the following:
 1. A facility where persons being treated for alcoholism or drug abuse are placed;

2. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 3. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.
- i. Residential Facility for Persons with a Disability means a residential facility in which more than four, but no more than eight, unrelated individuals, exclusive of staff, who have a Disability reside and:
- i. Where treatment services for disabilities are provided to residents such as counseling, therapy, group support and rehabilitation therapies; and
 - ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities; or;
 - iii. Is licensed by the Department of Health under the applicable state code and regulations.
 - iv. Residential Facility for Persons with a Disability shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.
- j. Residential Transition and Treatment Facility shall mean a residential facility that provides a living environment for more than four, but not more than eight, unrelated individuals, exclusive of staff, and
- i. Is established or maintained with the intent of providing structured peer support to residents with disabilities in an effort to assist residents in acquiring and strengthening social and behavioral skills necessary to transition into successful independent living; and
 - ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities; or
 - iii. Is licensed by the department of health under Utah Code Annotated title 26, chapter 21, the Health Care Facility Licensing and Inspection Act;
 - iv. A Transition and Treatment Facility shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.
- k. A Transitional Victim Home means a residential support facility for up to eight individuals or four (4) families (parent with children) at any given time, and said facility is licensed by the state of Utah as a residential support facility, which provides 24-hour care and peer support to victims of abuse or crime and which arranges for or provides the necessities of

life and protective services to residents who are temporarily displaced due to abuse, crime, or other emergency.

- i. Treatment is not a necessary component of a Transitional Victim Home, but may be provided if the facility and providers are properly license by the state.

Section 17.70.030 Residential Care Facilities

1. A Residential Care Facility shall be a permitted use in all residential, commercial, and mixed commercial zones.
2. A Residential Care Facility requires site plan approved by the Planning Director, which shall be given after consultation with the DRC to ensure the proposed facility complies with the provisions of this Chapter.
3. Prior to approval of the site plan, the owner/operator of a Residential Care Facility shall obtain a Residential Care Facilities Business License from Lindon City pursuant to the requirements of Chapter 5.42 of the Lindon City Code.
4. The facility shall meet all applicable building codes, safety codes, zoning regulations, and health ordinances applicable to single-family dwelling or similar dwellings; except as may be modified by the provisions of this Chapter.
5. For facilities located in residential zones, the structure shall be capable of use as a Residential Care Facility, which includes being fully handicap accessible, without structural or landscaping alterations that would change the residential character of the structure.
6. A site plan must be submitted showing any alteration of the structure or landscaping. Any alterations to the structure or landscaping must be approved by Building Department, if necessary, before a site plan is approved.
7. No Residential Care Facility shall exceed eight residents, excluding live-in staff.
8. Occupancy of the structure shall be such that each resident is provided adequate personal space. A Residential Care Facility shall ensure that each bedroom space in the facility has a floor area, exclusive of closet space, of at least 60 square feet per occupant in a multiple occupant bedroom and 80 square feet in a single occupant bedroom. Storage space shall not be counted. Live-in staff shall have a separate living space with a private bathroom.
9. The facility shall provide a space to serve as an administrative office for records, secretarial work and bookkeeping.
10. The facility shall meet the standard parking requirements for the zone in which it is located. However, a minimum of three off-street parking spaces shall be provided at the facility even if the standard parking requirements for the zone in which the facility is constructed would require fewer spaces for another use in that zone.
11. No portion of the facility's front and side yard setbacks shall be used to provide parking spaces as required by this section. Any use of the yard as parking space shall not change the residential character of the property.
12. In residential zones, no Residential Care Facility shall be established or maintained within such a distance of another Residential Care Facility so that the proximity of such facilities would create a clustering of residential facilities that would disrupt or affect the residential nature of the area.
13. The facility shall comply with all applicable state and federal laws, included laws related to access.

Section 17.70.040 Transitional Victim Homes (Safe Houses)

1. A Transitional Victim Home is subject requirements of Section 17.70.030, however, documents provided pursuant to this Chapter, or pursuant to Chapter 5.42, shall be deemed protected records relating to the safety and security of the proposed facility and may not be disclosed or provided pursuant to a request under the Utah Governmental Records Access and Management Act (GRAMA).

Section 17.70.050 Procedure for Review and Approval

1. An application for a new facility provided for in this Chapter shall include a site plan and all necessary documentation showing compliance with the applicable subsection under which the application is being submitted.
2. If the application meets all requirements of this Chapter, the Planning Director shall mail notice to owners of record within 300' of the subject property. This notice shall summarize the nature of the application, give the location of the Residential Care Facility, list the approval criteria with an indication that the City intends to issue the approval, and inform the property owners that they may request that Residential Care Facility application be reviewed by the City Administrator if they feel that the application does not meet the approval criteria.
 - a. Any interested party requesting review by the City Administrator shall submit a written request to the City Administrator within fourteen (14) days after the date of the notice received and shall state how the application does not meet the requirements. If no written request for review is received by the City within 14 days after the date of the notice, the permit for the Residential Care Facility shall be issued.
 - b. A request for review shall set forth the basis for the review, specifically identifying those areas of the City Code which are not met by the application.
 - c. Upon receipt of a written request for review, the City Administrator shall set an informal hearing as soon as practically possible (but not later than 30 days after receipt of the request) in which the applicant and the party requesting the review may present evidence on the application's compliance with this Chapter. The City Administrator shall then approve, continue, or deny the application.
 - i. The City Administrator may appoint a review officer, other than the Planning Director, to hear the request review.
 - ii. The party seeking the review has the burden of proving the application fails to meet the requirements of the City Code.
 - iii. The review of factual matters shall be on the record and shall be limited to reviewing documents and information presented to the Planning Director.
 - iv. If the request for review fails to set forth the information required under this subpart, the request may be denied summarily without a hearing.
 - d. Notices under this Section shall not be required for Transitional Victim Homes.
3. Where, after consultation with the DRC, it is determined that the information provided by the applicant is insufficient to show compliance with the requirements of this Chapter, the application shall be denied.
4. Written notice of the decision on application shall be provided to the applicant and to any interested party who has requested notice.

Section 17.70.060 Reasonable Accommodation

1. An applicant who desires to request a reasonable accommodation from any of the requirements of this Chapter based on the Utah Fair Housing Act, the Fair Housing Amendments Act of 1988 (42 USC section 3601 et seq.), and section 504 of the Federal Rehabilitation Act of 1973 et seq., may make such a request to the Planning Director. A request for reasonable accommodation shall be in writing and shall be delivered to the Planning Director either in person or by certified U.S. mail.
2. A request for reasonable accommodation shall include the following:
 - a. The name, mailing address and phone number of the applicant;
 - b. The nature of the action for which reasonable accommodation is being sought;
 - c. The physical address of the property where the applicant requests the reasonable accommodation;
 - d. The exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;
 - e. The proposed reasonable accommodation;
 - f. A statement explaining why a reasonable accommodation is necessary;
 - g. Provide evidence demonstrating the accommodation is reasonable and does not negate or negatively impact the legitimate purposes of existing zoning regulations, notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - h. Provide evidence that absent the accommodation, one or more persons with a disability would be denied an equal opportunity to enjoy housing of their choice; and
 - i. Provide evidence that the requested accommodation will achieve equal results between persons with a disability and nondisabled persons.
3. An informal hearing shall be held no later than thirty (30) business days following the Planning Director's receipt of the applicant's request for reasonable accommodation.
4. Within fourteen (14) business days of the informal hearing, the Planning Director shall make written findings and issue a decision.
5. If it is determined that a reasonable accommodation must be provided, the Planning Director shall include the accommodations to be made in the notice required in Section 17.70.050(2).

Section 17.70.070 Appeal

1. An interested party may appeal the decision of the Planning Director to the City Administrator.
2. Notice of an appeal shall be filed with the City Administrator within fourteen (14) days of the Planning Director's decision.
3. The notice of appeal shall identify the appellant and set forth the grounds for the appeal.
 - a. If a notice fails to state the grounds for the appeal, the appeal may be summarily denied.
 - b. An appellant must present every theory of relief it is claiming to preserve that theory for review in the District Court.
4. The City Administrator may hear the appeal or may appoint an appeals officer to hear the appeal.
5. Upon receipt of an appeal, the City Administrator or appeal officer shall set an informal hearing as soon as practically possible (but not later than thirty (30) days after receipt of the request) in which the appellant and interested the parties may address the Planning Director's decision.

6. The appellant has the burden of proving the Planning Director's decision was made in error.
7. The City Administrator or appeal officer's review of factual matters shall be on the record and shall be limited to reviewing documents and information presented to the Planning Director.
8. Any decision by the City Administrator or appeal officer on an appeal of a Residential Care Facility shall;
 - a. Be issued in writing within fourteen (14) days of the meeting at which the appeal was heard;
 - b. Set forth the findings of the City Administrator or designated appeal officer; and;
 - c. Be delivered in person or by first-class mail to the applicant and/or appellant.
9. A party adversely affected by the decision of the City Administrator or appeal officer may file a petition for review of the decision with the District Court within thirty (30) days after the decision is final.
10. A party wishing to challenge to decision of the City Administrator or review officer, on a request for review under Section 17.70.050(2) does not need to file an appeal of that decision, but may file a petition for review with the District Court within thirty (30) days after the decision on the request for review is final.

Section 17.70.080 Severability

If any provision of this chapter is declared invalid by a court of competent jurisdiction the remainder of this chapter shall not be affected.

Chapter 5.42

RESIDENTIAL CARE FACILITY BUSINESS LICENSE

Sections:

5.42.010	Purpose
5.42.020	Definitions
5.42.030	License Required
5.42.040	Temporary Residential Care Facility Business License
5.42.050	Issuance of Residential Care Facility Business License
5.42.060	Fee - Purpose-Amount
5.42.070	State and/or Federal Licensing
5.42.080	Insurance
5.42.090	Safety Requirements
5.42.100	Individualized Assessments
5.42.110	Services for Non-Resident Clients Prohibited in Residential Zone
5.42.120	Residential Facility for Elderly Persons
5.42.130	Reasonable Accommodation
5.42.140	Residential Care Facility Business License Not Transferable –Termination
5.42.150	Continued Compliance
5.42.160	Appeal
5.42.170	Severability

Section 5.42.010: Purpose

1. The purpose of this Chapter is to establish licensing requirements that are not contrary to law for residential facilities which provide services and support to residents in order to promote the health, safety, morals and general welfare of the public.
2. It is the intent of Lindon City to comply with the Utah Fair Housing Act, the Fair Housing Amendments Act of 1988 (42 USC section 3601 et seq.), and section 504 of the Federal Rehabilitation Act of 1973 et seq.
3. A Residential Care Facility for Elderly Persons, a Residential Facility for Persons with a Disability, a Residential Transition and Treatment Facility, and Transitional Victim Homes, are permitted uses in all residential, commercial, and mixed commercial zones within the City.
4. It is the intent of the City, to the extent allowed by law, to maintain the residential feel of a residential neighborhood consistent with the general plan.

Section 5.42.020 Definitions

1. For the purposes of this Chapter, certain terms and words are defined and are used in this Title in that defined context. Any words in this Title not defined in this Chapter shall be as defined in Webster's Collegiate Dictionary.
2. As used in this section, the following words shall be defined as follows:

- a. Disability means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment.
 - i. Disabled or Disability does not mean an impairment or limitation caused by the current use of a controlled substance or alcohol.
 - ii. Disabled or Disability also does not mean an impairment or limitation resulting from or related to kleptomania, pyromania, or any sexually related addiction or disorder, including but not limited to, sex and pornography addictions, pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder.
- b. DRC means the Development Review Committee.
- c. Elderly means a person who is 60 years or older, who desires to live with other elderly persons in a group setting, but who is capable of living independently.
- d. Reasonable Accommodation means a change in any rule, policy, practice, or service necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.
- e. Resident means mean persons living at and receiving the benefit of services and facilities provided by a Residential Care Facility, excluding staff and care providers.
- f. Residential Care Facility means a Residential Care Facility for Elderly Persons, a Residential Treatment Facility for Persons with a Disability, a Residential Transition and Treatment Facility, and a Transitional Victim Home.
- g. Residential Care Facility Business License means a business license issued pursuant to this Chapter.
- h. Residential Facility for Elderly Persons means a residential facility in which more than four, but not more than eight, unrelated Elderly individuals reside in a family-type arrangement or in a care facility arrangement and have live-in care providers who are paid to assist and care for the residents.
- i. Residential Facility for Elderly Persons shall not include any of the following:
 - i. A facility where persons being treated for alcoholism or drug abuse are placed;
 - ii. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 - iii. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended; or
 - iv. A facility which is a residential facility for persons with a disability.
- j. Residential Facility for Persons with a Disability means a residential facility in which more than four, but no more than eight, unrelated individuals, exclusive of staff, who have a Disability reside and:
 - i. Where treatment services for disabilities are provided to residents such as counseling, therapy, group support and rehabilitation therapies; and
 - ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities; or;
 - iii. Is licensed by the department of health under Utah Code.
 - iv. Residential Facility for Persons with a Disability shall not include any of the following:

1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended.
- k. Residential Transition and Treatment Facility means a residential facility that provides a living environment for more than four, but not more than eight, unrelated individuals, exclusive of staff, and
- i. Is established or maintained with the intent of providing structured peer support to residents with disabilities in an effort to assist residents in acquiring and strengthening social and behavioral skills necessary to transition into successful independent living; and
 - ii. Is licensed or certified by the department of human services under Utah Code Annotated title 62A, chapter 5, licensure of programs and facilities; or
 - iii. Is licensed by the department of health under Utah Code Annotated title 26, chapter 21, the Health Care Facility Licensing and Inspection Act;
 - iv. Residential Transitional and Treatment Facility shall not include any of the following:
 1. A facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution;
 2. A facility which is a healthcare facility as defined by UTAH CODE ANN. 26-21-2, as amended
- l. A Transitional Victim Home means a residential support facility for up to eight individuals or four (4) families (parent with children) at any given time, and said facility is licensed by the state of Utah as a residential support facility, which provides 24-hour care and peer support to victims of abuse or crime and which arranges for or provides the necessities of life and protective services to residents who are temporarily displaced due to abuse, crime, or other emergency.
- i. Treatment is not a necessary component of a Transitional Victim Home, but may be provided if the facility and providers are properly license by the state.

Section 5.42.030 License Required

It is unlawful for any person, firm, or corporation to establish and/or maintain a Residential Care Facility within the City without first securing approval for such use in accordance with the applicable provisions of the Lindon City Code and obtaining a Residential Care Facility Business License

Section 5.42.040 Temporary Residential Care Facility Business License

Lindon City shall issue a Temporary Residential Care Facility Business License to an applicant who has satisfied the terms, conditions, and regulations of this Chapter and the Chapter 17.70 governing Residential Care Facilities, including site plan and zoning approval from the Planning Director and the Building Department, if necessary, with the exception of Section 5.42.070 State and/or Federal Licensing. A Temporary Residential Care Facility Business License shall expire 90

days from the date of issuance or may be revoked immediately upon evidence that an applicant's request or application for state and/or federal licensing and approvals for the specific type of facility has been denied, withdrawn, or revoked.

Section 5.42.050 Issuance of Residential Care Facility Business License

Lindon City shall issue a Residential Care Facility Business License to an applicant who has satisfied all of the terms, conditions, and regulations of this Chapter and the Lindon City Code, including site plan and zoning approval from the Planning Director, and the Building Department, if necessary, including the receipt of a State and/or Federal License.

Section 5.42.060 Fee - Purpose-Amount

For purpose of regulation and to defray the cost of municipal services and administration, an annual Residential Care Facility Business License fee in the amount set forth in the Lindon City Fee Schedule and shall be levied and assessed for each Residential Care Facility for each calendar year or portion thereof.

Section 5.42.070 State and/or Federal Licensing

An application for a Residential Care Facility Business License must be accompanied by proof that an applicant has obtained all necessary state and/or federal licensing and approvals for the specific type of facility the applicant is proposing to establish or maintain.

Section 5.42.080 Insurance

An applicant shall provide proof of adequate general liability insurance for the program's vehicles, hazard insurance on the home, and general liability insurance to cover residents and third-party individuals.

Section 5.42.090 Safety Requirements

1. The owner or operator of a Residential Care Facility shall provide to the City Recorder, no less than 10 days prior to the placement of a resident within the facility, a notarized statement as follows:
 - a. That the facility does not accept any resident that would pose a direct threat to the health and safety of others in the facility or community or who in the past has posed a threat to the health and safety of others or whose tenancy would likely create a risk of substantial physical damage to others;
 - b. That the placement of each individual is strictly voluntary on the part of the individual or his/her legal guardian or conservator, and that it is not part of, or in lieu of, any confinement, rehabilitation or treatment in a correctional facility; and
 - c. That the certified agent agrees to promptly investigate any and all allegations of which it is or may become aware, relating to acts of an individual residing in or employed by such facility as may constitute a violation of the provisions of this section; and, if found to be substantiated, to take such action as may be reasonable and proper under the circumstances to correct/remedy the violation and any harm or damage resulting therefrom, and to protect the person and property of such individual and others residing or employed in and near the residential facility.

2. The written statement required above shall be accompanied by evidence that the Residential Care Facility has adopted a process for individualized assessments consistent with the requirements of § 5.42.100 of this Chapter.
3. Any Residential Care Facility that provides services to residents who have any past history of sexual assault, sexual aggression, or any offense involving a weapon, or are known to have acted in a manner which has resulted in serious bodily injury to another person, shall provide proof of a security plan that is satisfactory to the Lindon City Chief of Police, and which at a minimum provides 24-hour supervision for residents and 24-hour security measures and which complies with the rules and requirements established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities.
4. The City shall not issue any Residential Care Facility Business License to any Residential Care Facility that provides services to residents who have any past history of sexual assault, sexual aggression, or any offense involving a weapon, or which resulted in serious bodily injury to another person and which is proposed to be constructed and or operated within 1000 feet of a public or private school or licensed daycare as measured in a straight line between the closest property lines of the proposed facility and the school or daycare.

Section 5.42.100 Individualized Assessments

1. Each candidate for residency will be evaluated to determine if such person would constitute a threat prior to allowing occupancy of the facility by such a person. Such assessments shall be conducted by a licensed psychologist, social worker or other licensed individual qualified to perform such assessments.
2. Assessments shall include, but not be limited to, consideration for such things as past criminal histories and/or violent acts of the individual, the amounts of time that have lapsed since such acts, and treatments the individual has received. Evaluations of individuals who have committed acts of sexual aggression or criminal sex acts shall also include psycho-sexual evaluations by a licensed psychiatrist or an individual holding a PhD in psychology. No individual determined to pose a risk for commission of sexual offenses, or being classified as having predatory tendencies may be accepted as a resident.
3. Within seven (7) days of opening any Residential Facility, and at least quarterly thereafter, the person or entity licensed, shall certify in a sworn affidavit to the city recorder the following:
 - a. Each Resident has been evaluated by a licensed psychologist, social worker or other licensed individual qualified to perform such assessments required by this section;
 - b. That based on the individualized assessment performed for each resident, no person does, or will, reside in the facility whose tenancy would likely constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others; and
 - c. That all residents in the facility have been or are currently admitted strictly on a voluntary basis and not a part of, or in lieu of, confinement or treatment in a correctional facility nor as a condition of parole.

Section 5.42.110 Services for Non-Resident Clients Prohibited in Residential Zones

A Residential Care Facility located in a residential zone may not provide counseling, therapy, or other addiction recovery services at the facility for individuals who are not residents of that facility.

Section 5.42.120 Residential Facility for Elderly Persons

A Residential Care Facility for Elderly Persons shall comply with the requirement of the Chapter except individual assessments under Section 5.42.100 are not required. However, an applicant shall still be required to provide the required notarized statement affirming the facility does not accept any residents that would pose a direct threat to the health and safety of others in the facility or community or who in the past have posed a threat to the health and safety of others or whose tenancy would likely create a risk of substantial physical damage to others.

Section 5.42.130 Reasonable Accommodation

1. An applicant who desires to request a reasonable accommodation from any of the requirements of this Chapter based on the Utah Fair Housing Act, the Fair Housing Amendments Act of 1988 (42 USC section 3601 et seq.), and section 504 of the Federal Rehabilitation Act of 1973 et seq., shall have the right make such request to the City Recorder.
2. A request for reasonable accommodation shall include the following:
 - a. The name, mailing address and phone number of the applicant;
 - b. The nature of the action for which reasonable accommodation is being sought;
 - c. The physical address of the property where the applicant requests the reasonable accommodation;
 - d. The exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;
 - e. The proposed reasonable accommodation;
 - f. A statement explaining why a reasonable accommodation is necessary;
 - g. Provide evidence demonstrating the accommodation is reasonable and does not negate or negatively impact the legitimate purposes of existing zoning regulations, notwithstanding the benefit that the accommodation would provide to a person with a disability;
 - h. Provide evidence that absent the accommodation, one or more persons with a disability would be denied an equal opportunity to enjoy housing of their choice; and
 - i. Provide evidence that the requested accommodation will achieve equal results between persons with a disability and nondisabled persons.
3. The City shall hold an informal hearing shall be held no later than thirty (30) business days following the city's receipt of the applicant's request for reasonable accommodation.
4. Within fourteen (14) business days of the hearing the applicant shall be given written decision on the request for reasonable accommodation.

Section 5.42.140 Residential Care Facility Business License Not Transferable – Termination

1. A Residential Care Facility Business License is nontransferable and shall terminate upon the occurrence of any of the following:
 - a. The operations of Residential Care Facility cease for more than 30 days;

- b. The structure is devoted to a use other than a Residential Care Facility for any period of time;
- b. The structure fails to comply with all building, safety, health, and zoning requirement of the Lindon City Code.
- c. The state and/or federal licenses upon which Residential Care Facility Business License is issued, lapse or are rescinded or revoked the issuing agency.
- d. The owner or operator who originally obtained the Residential Care Facility Business License sells or transfers operations of the facility to a third party.
 - i. A third party who purchases or assumes the operations of an existing and currently operating Residential Care Facility shall not be required to resubmit site plans or obtain approval from the Planning Director as set forth in Chapter 17.70, but shall be required to apply for a new Residential Care Facility Business License.

Section 5.42.150 Continued Compliance

1. The owner or operator of a Residential Care Facility shall be required to maintain the facility so as to be in continual compliance with the provisions of this chapter and upon request shall provide written proof of such to the City Recorder.
2. If at any time the owner or operator of a Residential Care Facility is unable to provide proof of continued compliance with the applicable provisions of the Chapter, the Residential Care Facility Business License may be terminated.
3. Upon determining that a group home is no longer in compliance with the applicable provisions of this Chapter, the follow provision will apply:
 - a. Lindon City shall provide written notice of the non-compliance to the owner and operator of the Residential Treatment Facility.
 - b. Upon receipt of a notice of non-compliance the owner or operator of the facility must bring the facility and it operations back into compliance within 30 days of receipt of the notice.
 - c. If the owner or operator of the facility fails to provide proof that the facility and its operations have been brought back into compliance within of 30 days the notice, the Residential Care Facility Business License shall be revoked and withdrawn and Residential Care Facility shall cease operations.

Section 5.42.160 Appeal

1. An applicant or license holder who is denied a Residential Care Facility Business License or request for reasonable accommodation under this Chapter may appeal the decision to the City Administrator.
2. Notice of an appeal shall be filed with the City Administrator within 14 days of the decision denying or revoking the Residential Care Facility Business License.
3. The notice of appeal shall identify the appellant and set forth the grounds for the appeal.
 - a. If a notice fails to state the grounds for the appeal, the appeal may be summarily denied.
 - b. An appellant must present every theory of relief it is claiming to preserve that theory for review in the District Court.
4. The City Administrator may hear the appeal or may appoint an appeals officer to hear the appeal.

5. Upon receipt of an appeal, the City Administrator or appeal officer shall set an informal hearing as soon as practically possible (but not later than 30 days after receipt of the request) in which the appellant and interested parties may address the City's decision.
6. The appellant has the burden of proving the City's decision was made in error.
7. The City Administrator or appeal officer's shall review factual matters on the record and shall be limited to reviewing documents and information presented to the City during the application process.
8. Any decision by the City Administrator or appeal officer on an appeal of a Residential Care Facility shall;
 - a. Be issued in writing within fourteen (14) days of the meeting at which the appeal was heard;
 - b. Set forth the findings of the City Administrator or designated appeal officer; and;
 - c. Be delivered in person or by first-class mail to the applicant and/or appellant.
9. A party adversely affected by the decision of the City Administrator or appeal officer may file a petition for review of the decision with the District Court within thirty (30) days after the decision is final.

Section 5.42.170 Severability

If any provision of this Chapter is declared invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

10. Public Hearing — Ordinance Amendment, Lindon City Code 17.14, Noticing; Ord. #2018-3-O *(10 minutes)*

The City Council will review and consider Ordinance #2018-3-O amending Lindon City Code to increase noticing distances for mailed notices sent to property owners regarding various land use applications.

See attached materials from the Planning Department.

Ordinance Amendment, Lindon City Code 17.14, Noticing

<p>Applicant: Lindon City Council Presenting Staff: Hugh Van Wagenen</p> <p>Type of Decision: Legislative Planning Commission: Recommended approval of 500 foot residential project notice and 800 foot non-residential project notice with a 5-1 vote.</p>	<p><u>SUMMARY OF KEY ISSUES</u></p> <p>1. Whether it is in the public interest to recommend approval to change the third party noticing distance requirements for land use applications.</p> <p><u>MOTION</u></p> <p>I move to (<i>approve, deny, continue</i>) ordinance amendment 2018-3-O (<i>as presented, with changes</i>).</p>
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BACKGROUND

After reviewing a recent zone change request and considering the third-party notices mailed to surrounding properties, the City Council would like the Planning Commission to review third party notice distances for land use applications. With the request, staff has also made some general updates to bring noticing requirements up to date with state code regarding zoning map proposals.

ANALYSIS

The purpose of providing notices to third parties about pending developments stems from the Utah Open and Public Meetings Act, which states: "The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business. It is the intent of the Legislature that the state, its agencies, and its political subdivisions take their actions openly; and conduct their deliberations openly."

Currently, most land use applications in Lindon require a 300 foot notice buffer to adjoining properties. Staff prepares mailing lists, prints the notices and places them in envelopes and finally stamps them for mail delivery. The question before the Council is whether or not 300 feet notifies a sufficient number of properties that may be affected by an application.

Applications that would be affected by this change include "*site plan, conditional uses, subdivision, variances, alteration of non-conforming uses, zone map and general plan map changes, appeals heard by the Board of Adjustments, and for other land use applications that the Planning Director determines to have more than routine significance and for which the surrounding property owners should be notified in order to protect the public interest.*" Land use ordinance changes that directly affect properties may also be noticed with the new distances.

Below is a table comparing some of the hard cost differences between differing notice distances. Images of these examples are included in the attachments.

<i>Examples</i>	Industrial	Cost Difference	Residential	Cost Difference
300 foot buffer	28 notices	-	46 notices	-
500 foot buffer	34 notices	\$3.36	81 notices	\$19.60
800 foot buffer	45 notices	\$9.52	122 notices	\$42.56
1000 foot buffer	57 notices	\$16.24	170 notices	\$95.20

Stamp = \$0.46; Envelope = \$.09; Paper = \$.01; Staff time, printer toner, other overhead not included

ZONE MAP CHANGES

Section 10-9a-205 of Utah State Code gives precise requirements for notices to property owners whose land may be affected by a zoning map change. New language in the draft ordinance reflects those requirements. In practice, staff has already been following these requirements.

PLANNING COMMISSION RECOMMENDATION

In a 5-1 vote, the Commission recommended that projects in residential zones have a 500 foot notice radius and projects in non-residential zones have a 800 foot notice radius. Overall, they were in support of increased noticing. The Commission felt that a larger radius was appropriate for non-residential projects because lots in those zones tend to be larger in size. Commissioner Vanchiere voted nay on the motion citing that a 1000 foot notice buffer in non-residential zones was preferred.

ATTACHMENTS

1. Industrial notice map comparison
2. Residential notice map comparison
3. Draft Ordinance 2018-3-O

Non Residential Example

1000 feet

800 feet

500 feet

300 feet

400 NORTH

410 North

1700 West

109

325 NORTH

400 NORTH

240 North

GENEVA

200 NORTH

2000 WEST

1900 WEST

1400 WEST

WESTERN COL

CENTER

1200 WEST

100 SOUTH

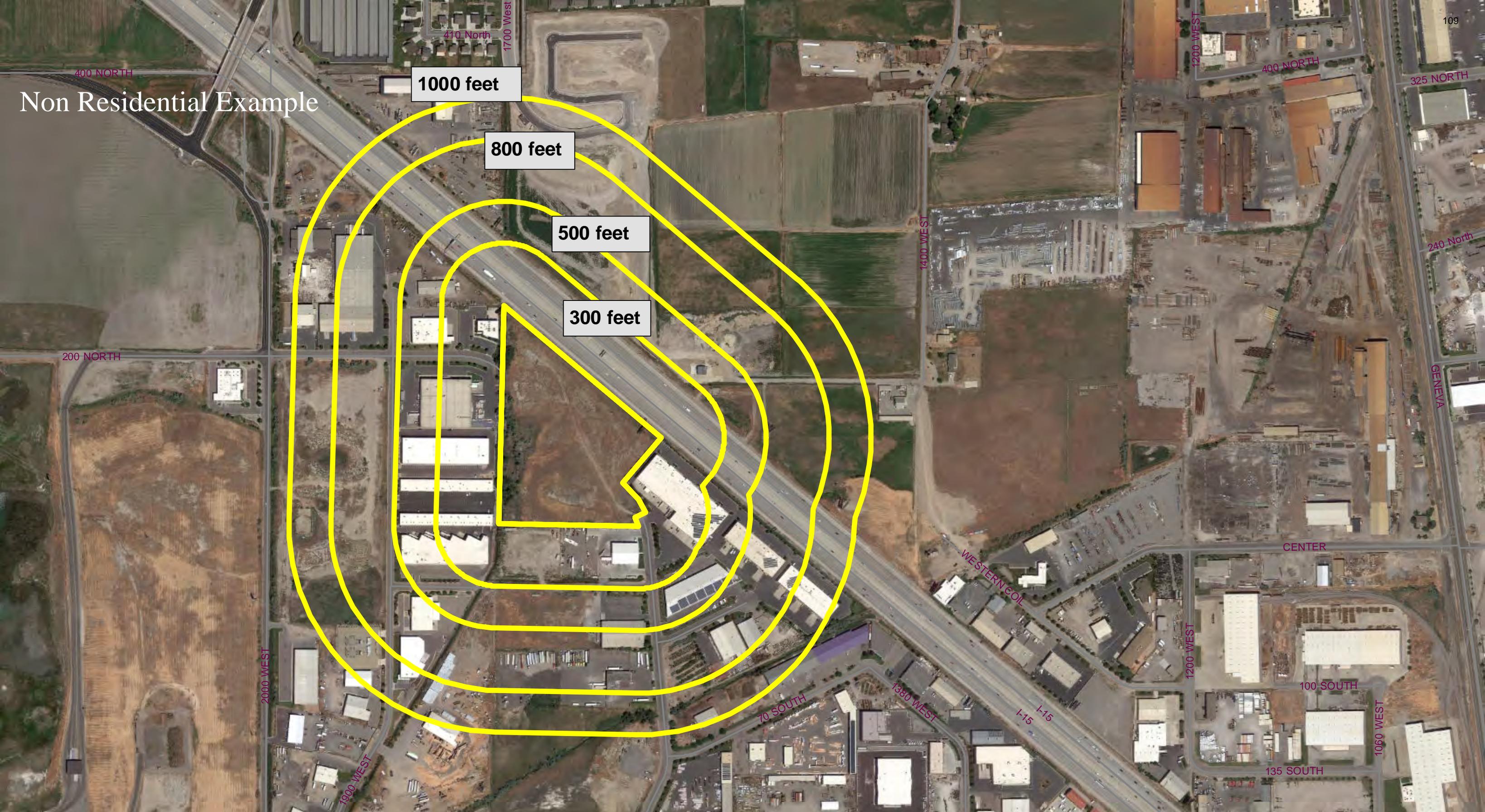
1060 WEST

70 SOUTH

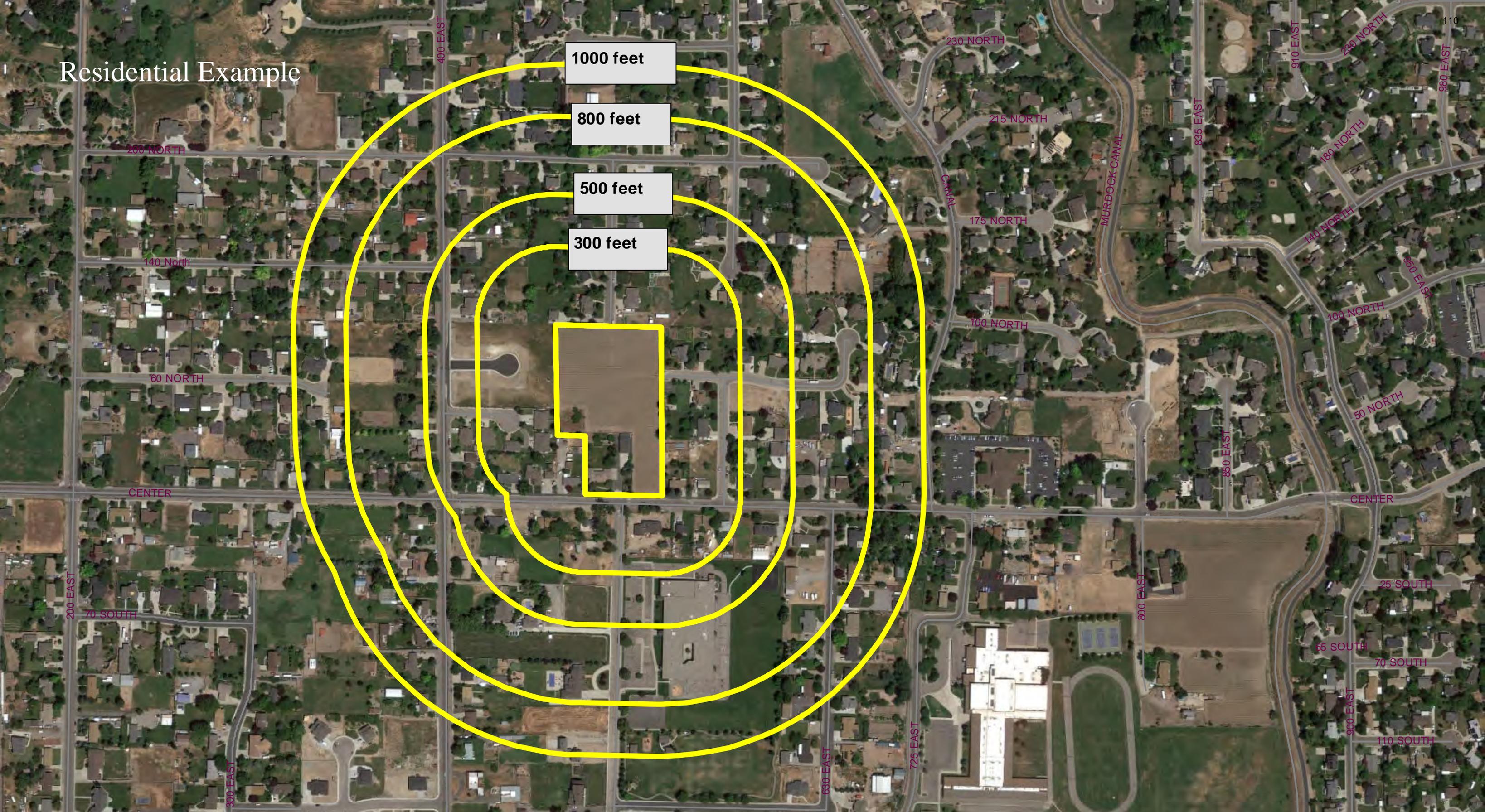
1380 WEST

I-15

135 SOUTH



Residential Example



ORDINANCE NO. 2018-3-O

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH COUNTY, UTAH, AMDENDING CHAPTER 17.14 NOTICING OF THE LINDON CITY CODE, AMENDING THE PROVISIONS OF THE SECTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Municipal Council of Lindon City finds it is necessary to amend LLC Chapter 17.14 Noticing to increase the number of third parties noticed for any given application and provide direct notice to property owners' whose land may be affecting by a zoning map change in accordance with State Code; and

WHEREAS, these changes further the purposes of the State Open Public and Meetings Act by informing property owners of pending applications; and

WHEREAS, the current noticing distance is found to be insufficient to inform third parties of pending applications; and

WHEREAS, the Planning Commission recommended adoption of the amended code provisions, and held a public hearing on January 9, 2018 and no adverse comments were received; and

WHEREAS, the City Council held a public meeting on January 16, 2018 to consider Commission's recommendation; and

WHEREAS, the current ordinance should be amended to provide such provisions to the Municipal Code of Lindon City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Lindon City, Utah County, State of Utah, Chapter 17.14 Noticing of the Lindon City Code is hereby amended and will read as follows:

Chapter 17.14 NOTICING

Sections:

17.14.010 Notice of Public Meeting.

17.14.015 Applicant Notice - Waiver of Requirements.

17.14.020 Note of Intent to Prepare a General Plan or Comprehensive Plan Amendments.

17.14.030 Notice of Public Hearing and Public and Public Meetings to Consider General Plan or Modifications.

17.14.040 Notice of Public Hearing and Public Meetings on Adoption or Modification of Land Use Ordinance.

17.14.050 Third Party Notice.

17.14.060 Notice for an amendment to a subdivision.

17.14.070 Hearing and Notice for Proposal to Vacate a Public Street, Right-of- Way, or Easement.

17.14.080 Notice Challenge.

17.14.090 Special Notice Requirements.

17.14.010 Notice of Public Meeting.

1. Notice of meetings for a public body shall be in conformance with the "Open and Public Meetings Act" as found in Utah Code 52-4. For use in this chapter of the Lindon City Code, definitions as found in Utah Code 10-9-103 and 52040103 are adopted by reference.

2. Unless otherwise specified in this chapter, for all meetings of a public body, an agenda of the meeting shall be posted not less than 24 hours before the meeting.

3. The agenda shall be posted at the Lindon City Center and, beginning April 1, 2008, shall be posted on the Utah Public Notice Website. Said notice shall also be provided to at least one newspaper of general circulation within Lindon City.

4. The city may establish additional means of informing the public about City activities and events through citizen enrolled electronic communication or other methods of information distribution.

17.14.015 Applicant Notice - Waiver of Requirements.

1. For each land use application, Lindon City shall:

a. Notify the applicant of the date, time, and place of each public hearing and public meeting to consider an application.

b. Provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting, and

c. Notify the applicant of any final action on a pending application.

2. If Lindon City fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant can waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

17.14.020 Note of Intent to Prepare a General Plan or Comprehensive Plan Amendments.

1. Before preparing a proposed General Plan or comprehensive General Plan amendment, the City shall provide 10 calendar days notice of its intent to prepare a proposed General Plan or a comprehensive General Plan amendment to: each affected entity within the City, Mountainland Association of Governments, the Utah State Automated Geographic Reference Center, and the State Planning Coordinator.

2. Each notice shall:

a. Indicate that the City intends to prepare a General Plan or a comprehensive plan amendment, as the case may be;

- b. Describe or provide a map of the geographic area that will be affected by the General Plan or amendment;
- c. Be sent by mail or e-mail;
- d. Invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a General Plan or amendment concerning:
 - i. Impacts that the use of land proposed in the proposed General Plan or amendment may have; and,
 - ii. Uses of the land within the City that the affected entity is considering that may conflict with the proposed General Plan or amendment; and,
- e. Include the City website address and a name and telephone number of a person where more information can be obtained concerning the City's proposed General Plan or amendment.

17.14.030 Notice of Public Hearing and Public and Public Meetings to Consider General Plan or Modifications.

1. The City shall provide:
 - a. Notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of General Plan; and,
 - b. Notice of each public meeting on the subject
2. Each notice of public hearing under Subsection (1)(a) shall be at least ten calendar days before the public hearing and shall be:
 - a. Published in a newspaper of general circulation within Lindon City;
 - b. Mailed to each affected entity;
 - c. Posted in at least three public locations with the City or on the City website.
3. Each Notice of a public meeting under subsection (1)(b) shall be at least 24 hours before the meeting and shall be:
 - a. Posted in at least 3 public locations within the City or on the City website; and,
 - b. submitted to a newspaper of general circulation within Lindon City.

17.14.040 Notice of Public Hearing and Public Meetings on Adoption or Modification of Land Use Ordinance.

1. The city shall give;
 - a. Notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and,
 - b. Notice of each public meeting on the subject.
2. Each notice of a public hearing under Subsection (1)(a) shall be:
 - a. Mailed to each affected entity at least ten calendar days before the public hearing;
 - b. Posted in at least 3 public locations within the City or on the City website;
 - c. Published in a newspaper of general circulation in the City at least 10 calendar days before the public hearing; or
 - i. Mailed at least 3 calendar days before the public hearing to:

- A. Each property owner whose land is directly affected by the land use ordinance change; and
 - B. Each adjacent property owner within ~~three-five~~ hundred (5300) feet if the impacted property is residential and eight hundred feet if the impacted property is non-residential.
3. Each notice of public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted in at least 3 public locations within the City.
4. Courtesy notices for proposed zoning map enactments or amendments shall be sent to each owner of private real property whose property is located entirely or partially within said proposal at least 10 days before the scheduled day of the public hearing.
- a. The notice shall:
- i. identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
 - ii. state the current zone in which the real property is located;
 - iii. state the proposed new zone for the real property;
 - iv. provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
 - v. state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
 - vi. state the address where the property owner should file the protest;
 - vii. notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and
 - ~~i.viii.~~ state the location, date, and time of the public hearing

17.14.050 Third Party Notice.

1. Third Party Notice shall be required by the City for all new site plan, conditional uses, subdivision, variances, alteration of non- conforming uses, zone map and general plan map changes, appeals heard by the Board of Adjustments, and for other land use applications that the Planning Director determines to have more than routine significance and for which the surrounding property owners should be notified in order to protect the public interest.
2. Not less than 10 calendar days before the first public meeting or public hearing required for land use applications listed in Subsection (1), each notice shall:
 - a. Be mailed and addressed to the record owner of each parcel within ~~three-five~~ hundred (5300) feet of the subject property if said property is residential or eight hundred (800) feet if said property is non-residential; or
 - b. Be posted on the subject property with a sign of sufficient size, durability, print quality, and location that it is reasonably calculated to give notice to passers-by.
3. If the City mails notice to third party property owners within subsection (2)(a), it shall mail equivalent notice to property owners within an adjacent jurisdiction. (Ord. 2009-8, amended, 2009; Ord. 2018-3, amended 2018)

17.14.060 Notice for an amendment to a subdivision.

1. For an amendment to a subdivision, the City shall provide notice of the date, time, and place of at least one public meeting that is;
 - a. Mailed not less than 10 calendar days before the public meeting and addressed to the record owner of each parcel within ~~three-five~~ hundred (5300) feet of that property if said property is residential or eight hundred (800) feet if said property is non-residential; or

b. Posted not less than 10 calendar days before the public meeting on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that it is reasonably calculated to give notice to passers-by.

2. The City shall provide notice as required by LCC 17.14.070 for a subdivision that involves a vacation of a street, right-of-way or easement. (Ord. 2009-8, amended, 2009; Ord. 2018-3, amended 2018)

17.14.070 Hearing and Notice for Proposal to Vacate a Public Street, Right-of- Way, or Easement.

For any proposal to vacate, alter, or amend a public street, right-of-way or easement, the City Council shall hold a public hearing and shall give at least 10 days notice of the date, place, and time of the hearing by;

- 1. Mailing notice to the record owner of each parcel that is accessed by the public street, right-of-way or easement;
- 2. Mailing notice to each affected entity.
- 3. Publishing notice in a newspaper of general circulation in the City; and
- 4. Posting notice on or near the street, right-of-way or easement in a manner that is calculated to alert the public. (Ord. 2009-8, amended, 2009)

17.14.080 Notice Challenge.

If notice given under authority of this part is not challenged under Utah Code 10-9a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

17.14.090 Special Notice Requirements.

Group homes and care facilities have special notice requirements found in LCC 17.70 and 17.72. Reimbursement Agreements have special notice requirements found in LCC 17.68.050 and 17.68.070. (Ord. 2008-1, amended, 2008)

SECTION II: Provisions of other ordinances in conflict with this ordinance and the provisions adopted or incorporated by reference are hereby repealed or amended as provided herein.

SECTION III: The provisions of this ordinance and the provisions adopted or incorporated by reference are severable. If any provision of this ordinance is found to be invalid, unlawful, or unconstitutional by a court of competent jurisdiction, the balance of the ordinance shall nevertheless be unaffected and continue in full force and effect.

SECTION IV: This ordinance shall take effect immediately upon its passage and posting as provide by law.

PASSED and ADOPTED and made EFFECTIVE by the City Council of Lindon City, Utah, this _____day of _____, 2018.

Jeff Acerson, Mayor

ATTEST:

Kathryn A. Moosman,
Lindon City Recorder

SEAL

II. Public Hearing — FY2017-18 Lindon City Fee Schedule Update; Ordinance #2018-4-O
(20 minutes)

The City Council will review and consider Ordinance #2018-4-O amending various fees within the FY2017-18 Lindon City Fee schedule, including adoption of new utility fees for Pressure Irrigation metering and Groundwater pumping, where applicable.

See attached Ordinance and recommended fee schedule changes.

Sample Motion: I move to (approve, continue, deny) Ordinance #2018-4-O amending the fiscal year 2017-18 Lindon City Fee Schedule.

ORDINANCE NO. 2018-4-O

AN ORDINANCE AMENDING THE 2017-18(FY2018) LINDON CITY FEE SCHEDULE TO UPDATE MISC. CITY FEES AND ADOPT NEW UTILITY FEES FOR SECONDARY WATER METERING AND GROUNDWATER PUMPING AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Municipal Council of Lindon City has adopted an annual Fee Schedule to define and identify all fees that may be imposed by Lindon City for various public services and utilities; and

WHEREAS, the City Council finds it is necessary to amend the Fee Schedule from time to time; and

WHEREAS, the fees charged by the City will ensure adequate recovery of costs and continue effective services within the City; and

WHEREAS, on January 16, 2018 the City Council held a duly noticed public hearing to consider the fee schedule changes and has reviewed and approves of the updated fees and utility rates as attached in ‘Exhibit A’ finding that said fee changes will benefit the city and the public.

THEREFORE, BE IT ORDAINED by the City Council of Lindon City, Utah County, State of Utah, as follows:

Section 1. The FY2018 Lindon City Fee Schedule is amended as follows:

(See changes outlined in attached ‘Exhibit A’)

Section 2. This ordinance shall take effect immediately upon passage and posting as provided by law.

PASSED AND APPROVED AND MADE EFFECTIVE by the City Council of Lindon City, Utah, this _____ day of _____, 2018.

By _____
Jeff Acerson, Mayor

Attest:

By _____
Kathryn A. Moosman, City Recorder

SEAL:

PROPOSED FEE SCHEDULE CHANGES

January 16, 2018

ADDITIONS

Aquatics Center	
Party Packages	
Package #1	\$35.00/hour
Private room with decorations	
Admission not included	
Package #2 (15 person maximum)	\$165.00
Private room with decorations for two hours	
Admission	
Pizza, chips, soda, and ice cream for each person	
Package #3 (15 person maximum)	\$265.00
Private room with decorations for two hours	
Admission	
Pizza, chips, soda, and ice cream for each person	
All day Flow Rider for each guest (waivers required)	
Land Use	
Standard Land Use Table Compatibility Review	\$500.00
Licenses	
Business License	
Residential Care Facility	\$250.00
Public Works	
Street Light Installation Fee	Actual Cost
Estimated cost will be pre-paid. The difference from actual cost will be billed or refunded after installation.	
Utilities (Rates are monthly and for each unit)	
Groundwater Pumping (where available)	\$20.00
Secondary Water	
Non-Agricultural	
Metered secondary water (where available; in addition fee based on lot size)	
Base	\$6.00
Usage rate per 1,000 gallons	\$0.95

CHANGES

Cemetery	
Purchase of Burial Right (Cemetery Lot)	
Quarter Half-size Lot (Only available in cremation section; Urns only, no vaults; up to 2 urns with 1 headstone per half-size lot)	
Resident	\$350.00 \$175.00
Non-Resident	\$650.00 \$325.00
<p>There is an option to finance the purchase of Burial Rights for up to 2 years with an 8.0% annual interest charge. Burial Rights must be paid for in full before burial.</p>	
Police	
Fingerprinting	
Resident or employee of Lindon business	Free
Non-resident	\$25.00

Recreation

Baseball

Pee Wee League

- Tee Ball \$35.00 \$45.00
- Coach Pitch \$35.00 \$45.00
- Machine Pitch \$35.00 \$45.00

Minors League

- Mustang (3rd - 4th grades) \$50.00 \$80.00
- Pinto (5th - 6th grades) \$50.00 \$85.00
- Pony (7th - 8th grades) \$95.00

Soccer

Fall Indoor Soccer \$35.00 \$40.00

Spring Soccer \$45.00

 Age 3-6 \$35.00

 Grades 1st-6th \$40.00

Volleyball

\$40.00 \$35.00

Late Fee

\$10.00 \$5.00

OTHER

There were 2 fee schedule changes which were approved October 18, 2016, but which did not get updated into the fee schedule during the June 2017 budget process. This was an oversight and not intentional. Staff has been charging these fees and recommends adding them into the Fee Schedule, retroactively as of July 1, 2017.

Aquatics Center

Rental Rates

Cancellation Fee for Aquatic Center Rentals \$25 \$10

Refund policy for rentals:

~~Rentals must be cancelled 24 hours prior to reserved time in order to qualify for a refund less the \$10 cancellation fee. No refunds for weather related cancellations. However, the reservation may be moved to an available date within the same calendar year.~~

Rentals must be cancelled 24 hours prior to reserved time in order to qualify for a refund less the \$25 Aquatics Center cancellation fee. If weather prohibits (Thunder & Lightning) entry into the water before the rental starts, a full refund will be issued minus the \$25 Aquatics Center cancellation fee as long as the renter notifies the Pool Management within the first 15 min. If weather prohibits (Thunder & Lightning) entry into the water before the first half of rental concludes, a refund of 50% will be issued. After the first half of the rental hour, no refunds will be given.

Public Works

Construction Phase Services

Area Component

- Parcel area being developed or changed \$1,200 + \$1,250 per acre
- Maximum area component fee \$15,000

Frontage Component

- Unimproved street frontage \$7.10 per linear foot
- Partially improved street frontage \$3.55 \$1.42 per linear foot

Linear Projects Component, per infrastructure component 1/3 * \$7.10 per linear foot

We consider a component of infrastructure to be sanitary sewer, storm drain, culinary water, pressure irrigation, sewer force main, (but not telecommunications conduit) as well as curb and gutter or curb, gutter and sidewalk on one side of the street. Curb and gutter on both sides of a street would count as two infrastructure components.



J-U-B ENGINEERS, INC.

J-U-B COMPANIES



**THE
LANGDON
GROUP**



**GATEWAY
MAPPING
INC.**

January 11, 2018

Adam Cowie
City Administrator
Lindon City
100 North State Street
Lindon, UT 84042

RE: Anderson Farms Pressure Irrigation and Groundwater Pumping Rates

Dear Adam,

We recommend the following utility rates for developments within Anderson Farms, given their unique setting with regard to pumping groundwater and pressure irrigation. These rates are based upon covering the operation, maintenance, and replacement costs of the groundwater pumping and pressure irrigation infrastructure.

In addition to the monthly regular pressure irrigation fee, we recommend that each utility account holder in Anderson Farms be assessed a base rate of \$6.00 per month for pressure irrigation, all 12 months of the year. In addition, we recommend a rate of \$0.95 per 1000 gallons of water used during the months in which pressure irrigation water is used. See the attached sheet for more detail on the calculation.

We recommend that each resident that has a connection from their property to the groundwater drain system in Anderson Farms be assessed a groundwater collection and pumping fee of \$20.00 per month. This assumes that all residents in Anderson Farms other than the 380 apartment units would pay this fee.

The fees are based on total estimated cost over the next 25 years, as well as the total number of utility payments made over the next 25 years to arrive at an average cost per month. The following sheet shows the assumed development rate.

Sincerely,
J-U-B ENGINEERS, Inc.

A handwritten signature in black ink, appearing to read "Mark L Christensen".

Mark Christensen
Project Manager

Operation, Maintenance and Replacement Cost Summary

Pressure Irrigation

Item	Cost per 25 Years
Lindon City Operator	\$ 272,500
Power Usage	\$ 261,952
Professional Services	\$ 20,833
Annual Equipment Maintenance	\$ 242,521
Asset Replacement Fund	\$ 942,500
Total Expenses	\$ 1,740,300
Total Revenue	\$ 1,730,323

Number of Anderson Farms Unit-Months	183132
Number of Anderson Farms PI Used (kgal)	665006

Base Rate per Month
\$6.00
Usage Rate per 1000 gallons
\$0.95

Groundwater

Item	Cost per 25 Years
Lindon City Operator	\$ 272,500
Power Usage	\$ 254,152
Professional Services	\$ 20,833
Annual Equipment Maintenance	\$ 231,655
Asset Replacement Fund	\$ 1,570,000
Total Expenses	\$ 2,349,100
Total Revenue	\$ 2,342,640

Number of Anderson Farms Unit-Months	117132
--------------------------------------	--------

Cost per Unit per Month
\$20.00

Total \$ 4,089,400

Assumed Development Timeline																
Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2040	2041	Total Units
Parcel A (Single Family)								60								60
Parcel B (Single Family)	20	10	48													78
Parcel C (Townhomes)			29			29	67									125
Parcel E (Single Family)					55											55
Parcel F (Active Adults)				69												69
Parcel G (Single Family)									44							44
Parcel H (Single Family)										56						56
Parcel I (Apartments)											180	200				380
No. of Payments	240	360	1284	2112	2772	3120	3924	4644	5172	5844	8004	10404	10404	10404	10404	
Cumulative No. of Payments	240	600	1884	3996	6768	9888	13812	18456	23628	29472	37476	47880	58284	172728	183132	

12. Closed Session — Closed Session to Discuss the Sale of Real Property (20 minutes)

The City Council will enter into a closed executive session to discuss the potential sale of real property per Utah Code 52-4-205. This session is closed to the general public.

Sample Motion to enter into Closed Session (*Roll-call vote needed*): I move to enter into a closed session to discuss the sale of real property.

After a motion and roll-call vote the Council will enter into a closed session that is not open to the public. General public at the meeting will be asked to leave the Council room and exit to the lobby. Once the session is finished the public meeting will be re-opened.

13. Public Hearing — Consideration of Offer on Sale of Real Property; Res #2018-4-R *(15 minutes)*

Lindon City Council will review and consider a new offer to purchase nine acres of surplus real property located at approximately 2100 West 600 South, Lindon (portion of Utah County Parcel ID #17:023:0012). Previously entertained offers and counter offers were not finalized and now void. This is a new offer on the property. The property has been listed for sale by the City since the fall of 2015. The nine acre section of this parcel was officially declared by the City Council as surplus real property through Resolution #2017-15-R.

See attached Resolution #2018-4-R and purchase offer from Sunrise Square Associates LC (Bill West with Knight West Construction).

The City Council will accept public comment on and consider an offer received from “Sunrise Square Associates LC and/or assigns” for purchase of real property owned by the City and declared as surplus in June of 2017. The listed asking price on the nine acre parcel is \$4.75 per square foot. The buyers offering price is \$1,822,986 as calculated at \$4.65 / sq. ft. of deeded land with anticipated closing within 60 days of signing contract.

Background information and dates of some more recent public meetings and public hearings regarding the disposal of this property are outlined in the attached Resolution #2018-3-R. The City Council has already declared the land as surplus real property and, having an offer near the listing price in hand, is now accepting public comment on the offer and sale.

Sample Motion: I move to (approve, continue, deny) Resolution #2018-4-R (accepting, rejecting, proposing a counter offer on) the purchase offer by Sunrise Square Associates LC.

RESOLUTION NO. 2018-4-R

A RESOLUTION ACCEPTING A PURCHASE OFFER ON NINE ACRES OF REAL PROPERTY OWNED BY LINDON CITY WHICH HAS BEEN DECLARED TO BE SURPLUS REAL PROPERTY.

WHEREAS, the Municipal Council of Lindon City, in conformance with the procedure for the disposal of parcels of real property as outlined in Lindon City Code Chapter 3.07, desires the disposal of nine acres of real property located at approximately 2100 West 600 South, Lindon (portion of Utah County Parcel ID #17:023:0012); and

WHEREAS, the property was identified to the public as being under consideration as disposable surplus land at the April 30, 2015 Public Safety Building open house; and

WHEREAS, in September 2015 the City Council decided to list the property for sale to gauge interest in the property; and

WHEREAS, the City received prior offers on the property and advertised and noticed the public of a hearing held on May 23, 2017 where the City Council was considering the declaration of surplus real property and to receive public comment on the disposal of the property, and

WHEREAS, additional public hearings regarding the property disposal were held on June 6, 2017 and a public on-site meeting on the property was held on June 13, 2017; and

WHEREAS, on June 20, 2017, after receiving additional public comment in a public hearing, the City Council passed Resolution #2017-15-R declaring the nine acres of real property as surplus real property; and

WHEREAS, the City Council has received a new offer on the property from “Sunrise Square Associates LC and/or assigns”, and has presented the terms of the offer in a public hearing held on January 16, 2018, and has determined that the offer price is acceptable and that the proceeds will benefit the public of Lindon City by funding other public purposes.

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

Section 1. The offer submitted by “Sunrise Square Associates LC and/or assigns” is accepted per the terms of the specific Real Estate Purchase Contract For Land and subsequent counter offers and Addendums attached as ‘Exhibit A’; and

Section 2. This resolution shall take effect immediately upon passage.

Adopted and approved this ____ day of _____, 2018.

By _____
Jeff Acerson, Mayor

Attest:

By _____
Kathryn A. Moosman, City Recorder

SEAL:

REAL ESTATE PURCHASE CONTRACT FOR LAND

This is a legally binding contract. If you desire legal or tax advice, consult your attorney or tax advisor.

EARNEST MONEY RECEIPT

Buyer Sunrise Square Associates LC and or Assigns offers to purchase the Property described below and hereby delivers to the Brokerage, as Earnest Money, the amount of \$ 50,000.00 in the form of Check which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited in accordance with state law.

Received by: _____ on _____ (Date)
(Signature of agent/broker acknowledges receipt of Earnest Money)

Brokerage: Title West Phone Number: 801-375-3600

OFFER TO PURCHASE

1. **PROPERTY:** Approximatley 9 acres of Lindon City Excess Land

also described as: 2100 West 600 South

City of Lindon County of Utah State of Utah ZIP 84042 (the "Property").

1.1 **Included Items. (specify)** _____

1.2 **Water Rights/Water Shares.** The following water rights and/or water shares are included in the Purchase Price.
 Any and all water Shares or water Stock that belong to the property for development. If there are no shares the city will provide the adequate amount of water share necessary for Development of the 9 acres (Name of Water Company)
 Other (specify) _____

2. **PURCHASE PRICE** The purchase price for the Property is \$1,822,986.00
The purchase price will be paid as follows:

\$ 50,000.000 (a) **Earnest Money Deposit.** Under certain conditions described in this Contract **THIS DEPOSIT MAY BECOME TOTALLY NON-REFUNDABLE.**

\$ _____ (b) **New Loan.** Buyer agrees to apply for one or more of the following loans:
 CONVENTIONAL OTHER (specify) _____
If the loan is to include any particular terms, then check below and give details:
 SPECIFIC LOAN TERMS _____

\$ _____ (c) **Seller Financing.** (see attached Seller Financing Addendum, if applicable)

\$ _____ (d) **Other (specify).** _____

\$ 1,772,986.00 (e) **Balance of Purchase Price in Cash at Settlement.**

\$ 1,822,986.00 **PURCHASE PRICE. Total of lines (a) through (e)**

3. **SETTLEMENT AND CLOSING.** Settlement shall take place on the Settlement Deadline referenced in Section 24(c), or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the Lender, by written escrow instructions or by applicable law; (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(c), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The transaction will be considered closed when Settlement has been completed, and when all of the following have been completed: (i) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (ii) the applicable Closing documents

Page 1 of 5 Seller Initials _____ Date _____ Buyer's Initials [Signature] Date 2/10/18

have been recorded in the office of the county recorder. The actions described in parts (i) and (ii) of the preceding sentence shall be completed within four calendar days of Settlement.

4. POSSESSION. Seller shall deliver physical possession to Buyer within: Upon Closing Other (specify)

5. CONFIRMATION OF AGENCY DISCLOSURE. At the signing of this contract: [] Seller's Initials [] Buyer's Initials

Listing Agent Jarrod Hunt, represents [x] Seller [] Buyer [] both Buyer and Seller as a Limited Agent

Listing Broker for Coldwell Banker Commerical, represents [] Seller [] Buyer [x] both Buyer and Seller as a Limited Agent; (Company Name)

Buyer's Agent Brandon Huntsman, represents [] Seller [x] Buyer [] both Buyer and Seller as a Limited Agent;

Buyer's Broker for Coldwell Banker Commerical, represents [] Seller [] Buyer [x] both Buyer and Seller as a Limited Agent; (Company Name)

6. TITLE INSURANCE. At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price. Any additional title insurance coverage shall be at Buyer's expense.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents which are collectively referred to as the "Seller Disclosures":

- (a) a Seller property condition disclosure for the Property, signed and dated by Seller;
(b) a commitment for the policy of title insurance;
(c) a copy of any leases affecting the Property not expiring prior to Closing;
(d) written notice of any claims and/or conditions known to Seller relating to environmental problems;
(e) evidence of any water rights and/or water shares referenced in Section 1.2 above; and
(f) Other (specify)

8. BUYER'S RIGHT TO CANCEL BASED ON BUYER'S DUE DILIGENCE. Buyer's obligation to purchase under this Contract (check applicable boxes):

- (a) [x] IS [] IS NOT conditioned upon Buyer's approval of the content of all the Seller Disclosures referenced in Section 7;
(b) [x] IS [] IS NOT conditioned upon Buyer's approval of a physical condition inspection of the Property;
(c) [x] IS [] IS NOT conditioned upon Buyer's approval of a survey of the Property by a licensed surveyor;
(d) [x] IS [] IS NOT conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the Property; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the Property;
(e) [x] IS [] IS NOT conditioned upon the Property appraising for not less than the Purchase Price;
(f) [] IS [x] IS NOT conditioned upon Buyer's approval of the terms and conditions of any mortgage financing referenced in Section 2 above;
(g) [x] IS [] IS NOT conditioned upon Buyer's approval of the following tests and evaluations of the Property: (specify); Soil tests deemed necessary by the buyer

If any of items 8(a) through 8(g) are checked in the affirmative, then Sections 8.1, 8.2, 8.3 and 8.4 apply; otherwise, they do not apply. The items checked in the affirmative above are collectively referred to as Buyer's "Due Diligence." Unless otherwise provided in this Contract, Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence and with a final pre-closing inspection under Section 11.

8.1 Due Diligence Deadline. No later than the Due Diligence Deadline referenced in Section 24(b) Buyer shall: (a) complete all of Buyer's Due Diligence; and (b) determine if the results of Buyer's Due Diligence are acceptable to Buyer.

Page 2 of 5 Seller Initials _____ Date _____ Buyer's Initials [Signature] Date 11/10/18

8.2 Right to Cancel or Object. If Buyer determines that the results of Buyer's Due Diligence are unacceptable, Buyer may, no later than the Due Diligence Deadline, either: (a) cancel this Contract by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer; or (b) provide Seller with written notice of objections.

8.3 Failure to Respond. If by the expiration of the Due Diligence Deadline, Buyer does not: (a) cancel this Contract as provided in Section 8.2; or (b) deliver a written objection to Seller regarding the Buyer's Due Diligence, The Buyer's Due Diligence shall be deemed approved by Buyer; and the contingencies referenced in Sections 8(a) through 8(g), including but not limited to, any financing contingency, shall be deemed waived by Buyer.

8.4 Response by Seller. If Buyer provides written objections to Seller, Buyer and Seller shall have seven calendar days after Seller's receipt of Buyer's objections (the "Response Period") in which to agree in writing upon the manner of resolving Buyer's objections. Except as provided in Section 10.2, Seller may, but shall not be required to, resolve Buyer's objections. If Buyer and Seller have not agreed in writing upon the manner of resolving Buyer's objections, Buyer may cancel this Contract by providing written notice to Seller no later than three calendar days after expiration of the Response Period; whereupon the Earnest Money Deposit shall be released to Buyer. If this Contract is not canceled by Buyer under this Section 8.4, Buyer's objections shall be deemed waived by Buyer. This waiver shall not affect those items warranted in Section 10.

9. ADDITIONAL TERMS. There ARE ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: Addenda No. 1 _____
 Seller Financing Addendum Other (specify) _____

10. SELLER WARRANTIES AND REPRESENTATIONS.

10.1 Condition of Title. Seller represents that Seller has fee title to the Property and will convey good and marketable title to Buyer at Closing by general warranty deed. Buyer agrees, however, to accept title to the Property subject to the following matters of record: easements, deed restrictions, CC&R's (meaning covenants, conditions and restrictions), and rights-of-way; and subject to the contents of the Commitment for Title Insurance as agreed to by Buyer under Section 8. Buyer also agrees to take the Property subject to existing leases affecting the Property and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, homeowners association dues, utilities, and other services provided to the Property after Closing. Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause to be paid current by Closing all assessments and homeowners association dues.

IF ANY PORTION OF THE PROPERTY IS PRESENTLY ASSESSED AS "GREENBELT" (CHECK APPLICABLE BOX):

SELLER BUYER SHALL BE RESPONSIBLE FOR PAYMENT OF ANY ROLL-BACK TAXES ASSESSED AGAINST THE PROPERTY.

10.2 Condition of Property. Seller warrants that the Property will be in the following condition **ON THE DATE SELLER DELIVERS PHYSICAL POSSESSION TO BUYER:**

- (a) the Property shall be free of debris and personal property;
- (b) the Property will be in the same general condition as it was on the date of Acceptance.

11. FINAL PRE-CLOSING INSPECTION. Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a final pre-closing inspection of the Property to determine only that the Property is "as represented," meaning that the Property has been repaired/corrected as agreed to in Section 8.4, and is in the condition warranted in Section 10.2. If the Property is not as represented, Seller will, prior to Settlement, repair/correct the Property, and place the Property in the warranted condition or with the consent of Buyer (and Lender if applicable), escrow an amount at Settlement sufficient to provide for the same. The failure to conduct a final pre-closing inspection or to claim that the Property is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the Property as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any existing leases shall be made; (b) no new leases shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; and (d) no further financial encumbrances affecting the Property shall be made.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or
Page 3 of 5 Seller Initials _____ Date _____ Buyer's Initials Date 1/10/18

other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

14. COMPLETE CONTRACT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties.

15. DISPUTE RESOLUTION. The parties agree that any dispute, arising prior to or after Closing, related to this Contract (check applicable box)

SHALL

MAY AT THE OPTION OF THE PARTIES

first be submitted to mediation. If the parties agree to mediation, the dispute shall be submitted to mediation through a mediation provider mutually agreed upon by the parties. Each party agrees to bear its own costs of mediation. If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this Section 15 shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15.

18. NOTICES. Except as provided in Section 23, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. Except for the provisions of Sections 10.1, 10.2, 15 and 17 and express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. RISK OF LOSS. All risk of loss to the Property, including physical damage or destruction to the Property or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until the transaction is closed.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (Le., Acceptance, etc.). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to this Contract, except as otherwise agreed to in writing by such non-party.

22. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. CONTRACT DEADLINES. Buyer and Seller agree that the following deadlines shall apply to this Contract:

Page 4 of 5 Seller Initials _____ Date _____ Buyer's Initials Date 1/10/18

- (a) Seller Disclosure Deadline 10 days from a fully executed Contract. (Date)
- (b) Due Diligence Deadline 45 days from a fully executed Contract (Date)
- (c) Settlement Deadline 60 Days from a fully executed Contract (Date)

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by 5:00 [] AM [x] PM Mountain Time on February 8th 2018 (Date), this offer shall lapse; and the Brokerage shall return the Earnest Money Deposit to Buyer.

Surprise Square Associates, L.L.C.

Buyer - William G. West, Member 1/10/18

 (Buyer's Signature) (Offer Date) (Buyer's Signature) (Offer Date)

The later of the above Offer Dates shall be referred to as the "Offer Reference Date"

William G. West 451 E. 1000 So. St. A 801-84060 785-8025
 (Buyers' Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)
Pl. Grove, VT

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

- ACCEPTANCE OF OFFER TO PURCHASE:** Seller Accepts the foregoing offer on the terms and conditions specified above.
- COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. _____.

 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

 (Sellers' Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

- REJECTION:** Seller rejects the foregoing offer.

 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

Page 5 of 5 Seller Initials _____ Date _____ Buyer's Initials *WGW* Date *1/10/18*

ADDENDUM NO. 1
TO
REAL ESTATE PURCHASE CONTRACT

THIS IS AN **ADDENDUM** **COUNTEROFFER** to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of January 9th 2018 including all prior addenda and counteroffers, between Sunrise Square Associates LC as Buyer, and City of Lindon as Seller, regarding the Property located at 2100 West 600 South Lindon Utah 84042. The following terms are hereby incorporated as part of the REPC.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): **REMAIN UNCHANGED** **ARE CHANGED AS FOLLOWS:**

- Multiple Members of Sunrise Square Associates LC or Licensed real estate agents in the state of Utah. Seller Shall accommodate Buyers 1031 Exchange at no expense to the seller.

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other items of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. **Seller** **Buyer** shall have until 5:00 **AM** **PM** Mountain time on February 8th 2018 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

Sunrise Square Associates, L.C.
by: [Signature] Member

Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: **Seller** **Buyer** hereby accepts the terms of this ADDENDUM

COUNTEROFFER: **Seller** **Buyer** presents as a counteroffer the terms of attached ADDENDUM NO. _____

(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION: **Seller** **Buyer** rejects the foregoing ADDENDUM

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

[Handwritten Signature]

14. Council Reports:

- A) MAG, COG, UIA, Utah Lake Commission, ULCT, NUVAS, IHC Outreach, Budget Committee
- B) Public Works, Irrigation/water, City Buildings
- C) Planning, BD of Adjustments, General Plan, Budget Committee
- D) Parks & Recreation, Trails, Tree Board, Cemetery
- E) Public Safety, Court, Lindon Days, Transfer Station/Solid Waste
- F) Admin., Community Center, Historic Comm., PG/Lindon Chamber, Budget Committee

(20 minutes)

- Jeff Acerson
- Van Broderick
- Matt Bean
- Carolyn Lundberg
- Daril Magleby
- Jacob Hoyt

I5. Administrator's Report

(10 minutes)

Misc Updates:

- January newsletter: <https://media.rainpos.com/442/january18final2.pdf>
- February newsletter article: **Adam Cowie** - Article due to Kathy last week in January
- Orem 2017 Fire/EMS yearly totals on calls from our station is attached
- Misc. Items:

Upcoming Meetings & Events:

- Jan 16th @ 6:00pm – tour of new sewer lift station (prior to Council meeting). Planning Commission and State Legislators have been invited to attend. Senator Dayton toured the facility with Staff on Jan 10th.
- Jan 24th – Christmas tree curb-side pick-up. Dumpster will also be available at the Aquatics Center Parking lot from Jan 3rd through end of the month (for trees only! No garbage).
- January 29th through March 8th - Utah Legislature in session.
- February 8th @ 6:00pm – Budget Kickoff Meeting w/Council and Department Heads

Adjourn

2017	Engine 35 Responses in Lindon	Rescue 35 Responses in Lindon	Engine 35 Responses in Orem	Rescue 35 Responses in Orem	Mutual-Aid Engine 35	Mutual-Aid Rescue 35	Orem Responses in Lindon	Total
<i>January</i>	55	53	16	12	0	0	20	156
<i>February</i>	52	48	21	37	1	3	14	176
<i>March</i>	49	50	20	32	1	1	37	190
<i>April</i>	46	42	7	22	3	2	17	139
<i>May</i>	70	65	27	39	1	2	25	204
<i>June</i>	57	55	21	31	0	1	28	165
<i>July</i>	50	46	17	28	5	6	29	152
<i>August</i>	68	69	24	40	0	1	33	202
<i>September</i>	61	64	12	24	3	3	27	167
<i>October</i>	54	50	18	32	2	1	45	157
<i>November</i>	42	44	18	33	2	4	30	143
<i>December</i>	57	57	11	33	1	1	25	160
								0
Total	661	643	212	363	19	25	330	2011