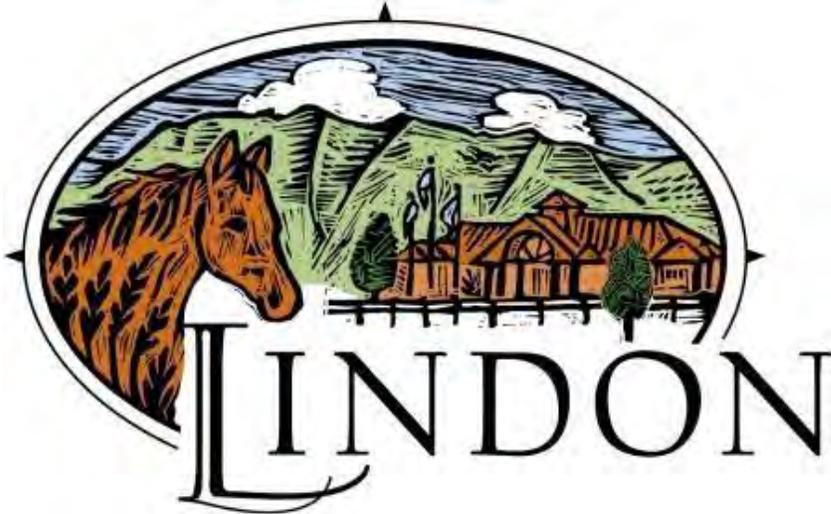


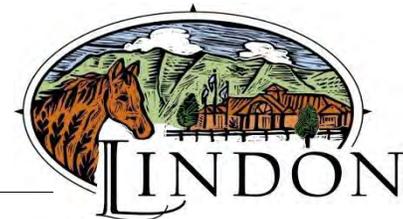
# Lindon City Council Staff Report



Prepared by Lindon City  
Administration

July 17, 2018

# Notice of Meeting of the Lindon City Council



The Lindon City Council will hold a meeting beginning at 7:00 p.m. on Tuesday, July 17, 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:



*(Review times are estimates only)*

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

Pledge of Allegiance: By Invitation

Invocation: Jeff Acerson

- 1. Call to Order / Roll Call**
- 2. Presentations and Announcements**
  - a) Comments / Announcements from Mayor and Council members
  - b) Review 2018 State of the City Report
- 3. Approval of minutes: June 19, 2018**
- 4. Consent Agenda –**
  - a) Authorize the Mayor to sign a change order adding \$225,000 to the Lindon City 2017 Street Maintenance Projects contract previously awarded to Staker & Parson Companies to complete the 200 South overlay project between approx. 1300 West to 2000 West. The contractor has agreed to hold prices that were approved in their original 2017 bid. This amount was appropriated in the FY2019 road fund budget.
- 5. Open Session for Public Comment** *(For items not on the agenda)*
- 6. Public Hearing — Zoning Map Amendment; PC-2 to PC-1; 452 S. 800 W. (Ord. 2018-12-O)**

Lindon City requests approval of Ordinance 2018-12-O consisting of a zone map amendment from Planned Commercial-2 (PC-2) to Planned Commercial-1 (PC-1) for parcel #46:937:0201 (Lot 201, Plat B, Murdock Cars of Lindon Subdivision), located at 452 South 800 West. The Planning Commission recommends approval.
- 7. Review & Action — Emery View Subdivision, Plat A (Improvements) ~503 North 150 East**

Staff requests approval for a deferment agreement to be created and signed by the Mayor regarding the curb, gutter and sidewalk improvements for the Jared Colledge minor subdivision proposal. The Planning Commission approved the subdivision with the recommendation that the City Council consider a waiver of protest agreement (or deferment agreement) delaying the curb, gutter and sidewalk improvements.
- 8. Discussion Item — Highlands at Bald Mountain; encroachments onto City property**

The City Council will receive information and provide direction to staff regarding several properties that have installed landscaping and other improvements on city owned right-of-way for the future 1200 E. roadway.
- 9. Public Hearing — Ordinance Change; LCC 12.04; 12.08 - Use of Streets & Sidewalks (Ord. 2018-13-O)**

The City Council will review and consider Ordinance #2018-13-O updating code requirements regarding snow removal from sidewalks and maintenance of landscaping adjacent to city streets.
- 10. Public Hearing — Ordinance Change; LCC 5.08 - Alcohol Sales & Licensing (Ord. 2018-11-O)**

The City Council will review and consider Ordinance #2018-11-O bringing the city’s alcohol sales and licensing ordinance up to date with current Utah State codes.
- 11. 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
- 12. Administrator’s Report**

*(2 minutes)*

*(20 minutes)*

*(5 minutes)*

*(5 minutes)*

*(10 minutes)*

*(10 minutes)*

*(20 minutes)*

*(20 minutes)*

*(10 minutes)*

*(10 minutes)*

*(20 minutes)*

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

*(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](http://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](http://www.lindoncity.org)) websites.

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

**Date:** July 13, 2018; **Time:** 11:30 a.m.; **Place:** Lindon City Center, Lindon Police Dept., Lindon Community Center

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

Pledge of Allegiance: By Invitation

Invocation: Jeff Acerson

### **Item 1 – Call to Order / Roll Call**

July 17, 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) **Presentation:** City Administrator, Adam Cowie, will present the 2018 State of the City Report

# LINDON

## State of the City Report July 2018

### Lindon City: Stewardship & Stability

Lindon City continues as a growing and vibrant community that is committed to providing quality public services for its residents and businesses. Through a commitment of prudent financial responsibility, planning for an improved quality of life, and efforts to create lasting economic development, Lindon continues on a trajectory of success. The City is maintaining its course as one of the most stable, safe and thriving cities in the great State of Utah.

This document is intended to be a brief overview of various services provided and activities performed by Lindon City. It will highlight Lindon's past achievements, aspects of the current Fiscal Year (FY) 2019 budget (July 1, 2018 – June 30, 2019), examine crucial taxes & fees collected by the City, and provide insight into some of Lindon's future challenges.

### Lindon's Past Year at a Glance (FY2018):

Lindon City is a full-service municipality covering about 8.5 square miles and serves a population of about 10,970 people. The City provides a wide scope of urban services and amenities made possible, in part, by robust sales tax revenues and prudent use of public funds.

#### SERVICES, MAINTENANCE RESPONSIBILITIES, & PERFORMANCE STATS (JULY 1, 2017 - JUNE 30, 2018)

|   |  |   |
|---|--|---|
| <b>Public Works</b> <ul style="list-style-type: none"> <li>• 86 miles of water lines</li> <li>• 81 miles of sewer lines</li> <li>• 49 miles of secondary water lines</li> <li>• 48 miles storm drain lines</li> <li>• 13 miles open ditches</li> <li>• 802 fire hydrants</li> <li>• 25 cemetery interments</li> </ul> | <b>Streets</b> <ul style="list-style-type: none"> <li>• 54.4 miles of streets maintained</li> <li>• Operates 6 snow plows</li> <li>• 8 tons of asphalt used to fill potholes</li> <li>• 892 street signs maintained</li> <li>• 203 city street lights</li> </ul>                         | <b>Utilities</b> <ul style="list-style-type: none"> <li>• 3,285 culinary connections</li> <li>• 2,600 secondary water connections</li> <li>• ~1.1 billion gallons secondary water delivered</li> <li>• ~410 million gallons culinary water delivered</li> </ul>   |
| <b>Parks &amp; Recreation</b> <ul style="list-style-type: none"> <li>• 55 acres of developed parks, w/ 12 pavilions</li> <li>• 6.5 miles of trails</li> <li>• Senior Center &amp; Community Center</li> <li>• 69,252 visitors to Aquatics Center (2017 season)</li> <li>• 37 rec programs offered</li> </ul>          | <b>Development</b> <ul style="list-style-type: none"> <li>• 302 bldg permits issued</li> <li>• \$52,450,592 = value of building projects</li> <li>• 63 land use applications processed</li> <li>• 8 new commercial / industrial developments</li> <li>• 823 business licenses</li> </ul> | <b>Public Safety</b> <ul style="list-style-type: none"> <li>• 15 full-time police officers               <ul style="list-style-type: none"> <li>◦ 5,783 service calls</li> <li>◦ 2,191 traffic stops</li> </ul> </li> <li>• 15 full-time fire &amp; EMS (contracted through Orem)               <ul style="list-style-type: none"> <li>◦ 227 fire service calls</li> <li>◦ 556 EMS service calls</li> </ul> </li> </ul> |
| <b>Employees</b> <ul style="list-style-type: none"> <li>• 50 full-time</li> <li>• 30 perm. part-time (includes elected &amp; appointed officials)</li> <li>• ~135 temp/seasonal</li> <li>• Employee costs = 28.9% of total expenditures (net of fund balances &amp; transfers)</li> </ul>                             | <b>Justice Court</b> <ul style="list-style-type: none"> <li>• 265 criminal cases</li> <li>• 35 small claims cases</li> <li>• 2,412 traffic cases</li> </ul>  | <b>Finance</b> <ul style="list-style-type: none"> <li>• \$2.14 Million in General Fund balance (savings)</li> <li>• Utility fund balances growing to support replacement projects</li> <li>• GFOA Budget Award</li> </ul>   |

## FY2017-18 Accomplishments & Achievements

- Held over 40 public meetings and open houses
- Completed new sewer lift station #7
- Aquatics Center: Re-sealed/re-painted all concrete & wood structures; refinished play toys; new tile on edges of pools
- 12 new park benches installed
- 2017-18 Grants Awarded & Donations Received:
  - \$1,300,000 - Heritage Trail completion to Utah Lake
  - \$706,000 - Geneva & 200 S. intersection improvements
  - \$169,648 - City Center Elevator & lighting upgrades
  - \$33,000 - Justice Court indigent defense grant
  - \$30,019 - Police: Drone; bullet proof vests/cameras
  - \$5,707 - Parks Dept: wind screens on tennis court
  - \$5,000 - Senior Center furnishings and ADA doors
  - \$2,230 - 2017 Thanksgiving Dinner donations
- \$7.958 million in awarded grants and donations since 2005



LINDON SEWER LIFT STATION #7

## Lindon City Recognitions

- 2018: Best Places in Utah to Raise a Family (22<sup>nd</sup>), Niche
- 2017: Safest Cities in the State of Utah (6<sup>th</sup>), LendEDU
- 2016 & 2013: Business Friendly City Award, State of Utah Governor's Office
- 2016 (30<sup>th</sup>) & 2014 (12<sup>th</sup>): Safest Cities in the State of Utah, www.safewise.com
- 2015: Best Commuter Cities in State of Utah (13<sup>th</sup>), www.obrella.com
- 2013, 2011, 2009: "100 Best Small Cities to Live In America", CNN Money Magazine

### Regional (Provo-Orem Metro Area):

- 2017: Happiest Cities in the United States (7<sup>th</sup>), National Geographic/Gallup
- 2017: Best Cities for Millennials (2<sup>nd</sup>), Apartment List
- 2017: #1 Fastest Growing Economy, SpareFoot / Best Economy (4<sup>th</sup>); ValuePenguin
- 2017: Best Cities for Small Businesses (17<sup>th</sup>), ValuePenguin
- 2016: Best Cities for Tech (3<sup>rd</sup>); DataFox
- 2016(2<sup>nd</sup>) & 2015(3<sup>rd</sup>): Best Performing Cities, Milken Institute

## FY2019 Budget – Saving for the Future

Lindon City has committed to build its General Fund balance (savings/reserves) as close as possible to the maximum allowed by the State in order to help avoid tax & fee increases during economic downturns. The City is projecting it will end its current budget year (June 30, 2019) with about 24.05% of revenues, or \$2.37 million, saved in its General Fund balance (State allows max of 25%).

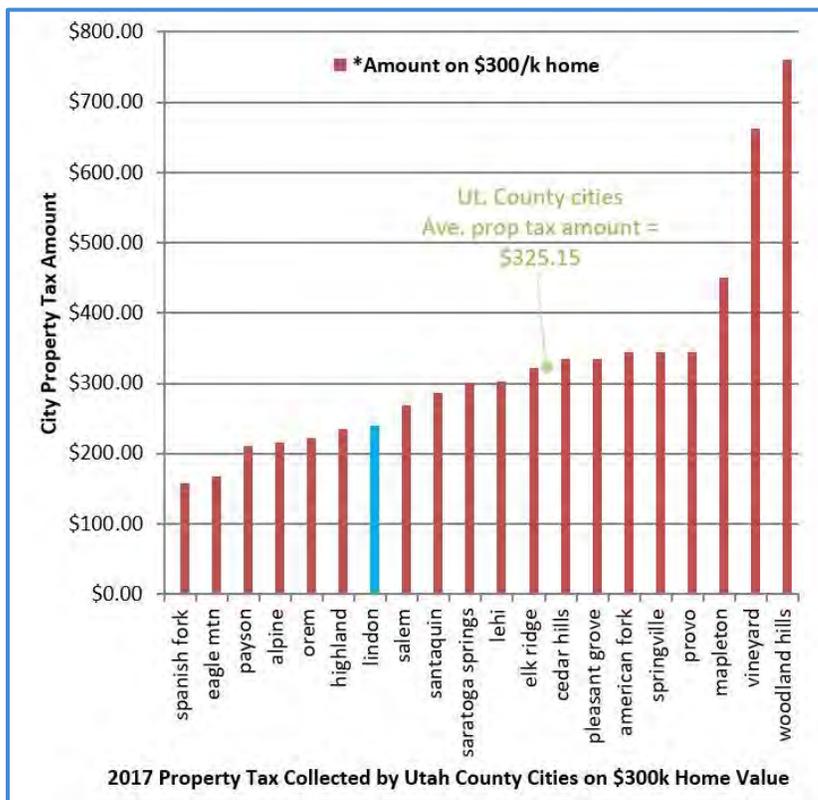


Reports comparing city expenditures sometimes cite Lindon's high spending per capita: Lindon has a large budget compared to its smaller population. However, these reports are poor comparisons of true city-to-city costs on tax payers and ignore varying service levels between cities. They also fail to recognize the fortunate position Lindon enjoys by having a small population which benefits from a large commercial & industrial sales tax base. Lindon's citizens and businesses enjoy below average property taxes, average fees, and excellent city services and amenities. Lindon's prosperous position enables it to meet demand for increased services and amenities without the need to significantly increase property taxes.

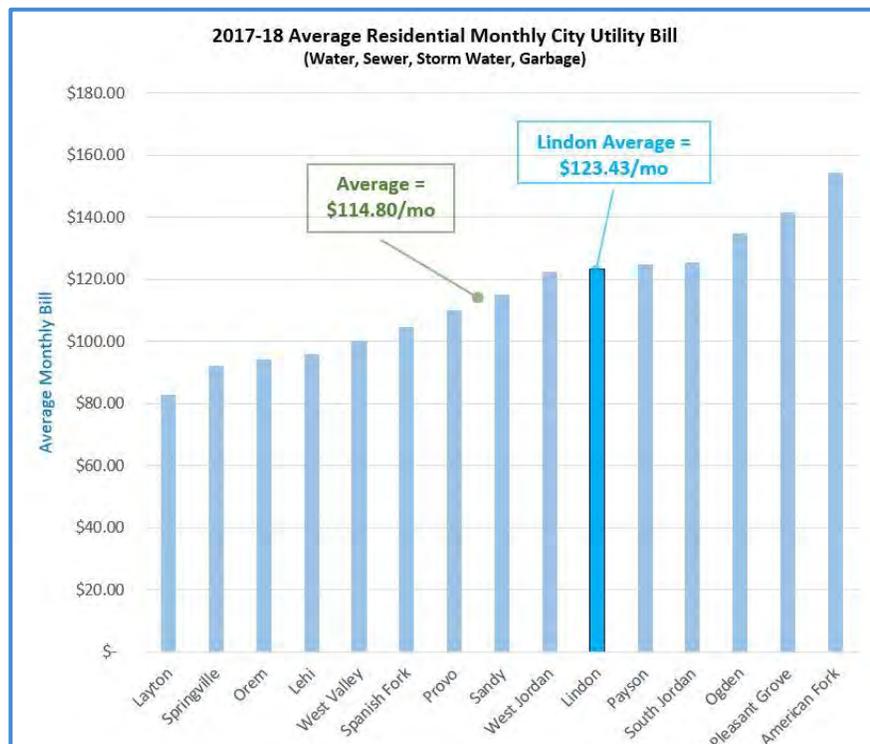
## Property Taxes

Unrealized by many tax payers is that Lindon City receives only a portion of assessed property taxes. The majority of property taxes are distributed to Alpine School District (70%), followed by Lindon City (16%), Utah County (10%), and Central Utah Water Conservancy District (4%). The chart to the right compares the CITY PORTION of residential property taxes collected by Utah County cities.

In 2017-18 Lindon City received \$239 in property taxes from a residential property valued at \$300,000. For \$239 the land owner essentially purchased their access to one-year of full-time police/fire & EMS coverage, parks & trails, snow plowing, fixing of potholes, street signs, street lights, resurfaced roadways, a Senior Center, recreation programs, city fair & cultural events, a Community Center, library card reimbursements, discounted rates at the Aquatics Center, etc. *What a deal!* Lindon is fortunate to have a large sales tax base and healthy



franchise tax base that helps supplement these general fund services so that property taxes can stay relatively low. In nearly 30 years Lindon has only increased its property taxes once (in 2009).



## Utility Rates

Lindon City provides sewer, storm water, water (including secondary water) and garbage services. These services are sustained by user fees paid through your utility bill. Small increases are planned each year to help cover aging infrastructure replacement costs and keep up with inflation. Comparing utility rates between cities is like comparing apples to oranges; every city has different infrastructure costs that their utility rates are based upon. However, it is helpful to know that Lindon's residential monthly utility bills are about average compared to these 14 other Utah cities.

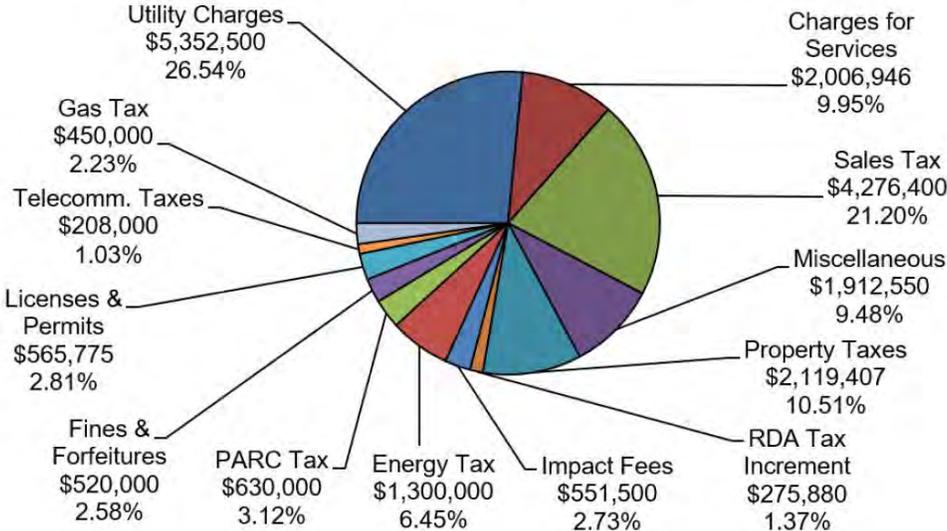
Data from Orem City FY2019 Budget: based on 28,000 gallons of water used per month; 9,000 gallons of sewer. Lindon water zone rates averaged.

# FY2019 Budget – Revenues vs. Expenditures

Each year Lindon City reviews and adopts a new budget through a series of committee meetings, recommendations from City department managers, and input from the public at City Council meetings. Below are charts showing projected city revenues and expenditures for the current fiscal year (FY2019). The largest portions of revenue come from Utility Charges, Sales Taxes, Property Taxes, Charges for Services, Miscellaneous Income (grants, leases, etc.), and other taxes and fees.

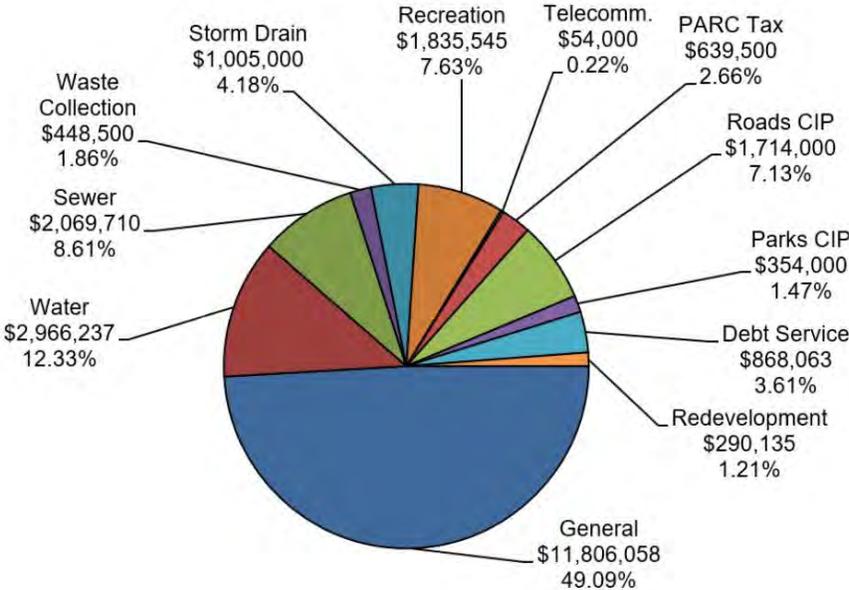
## Where the Money Comes From

**Total City Revenues = \$20,168,958**  
**Net of fund balances and transfers**



## City Wide Expenditures by Fund

**Total Expenditures = \$24,050,748**  
**Total Includes Fund Balances and Transfers**

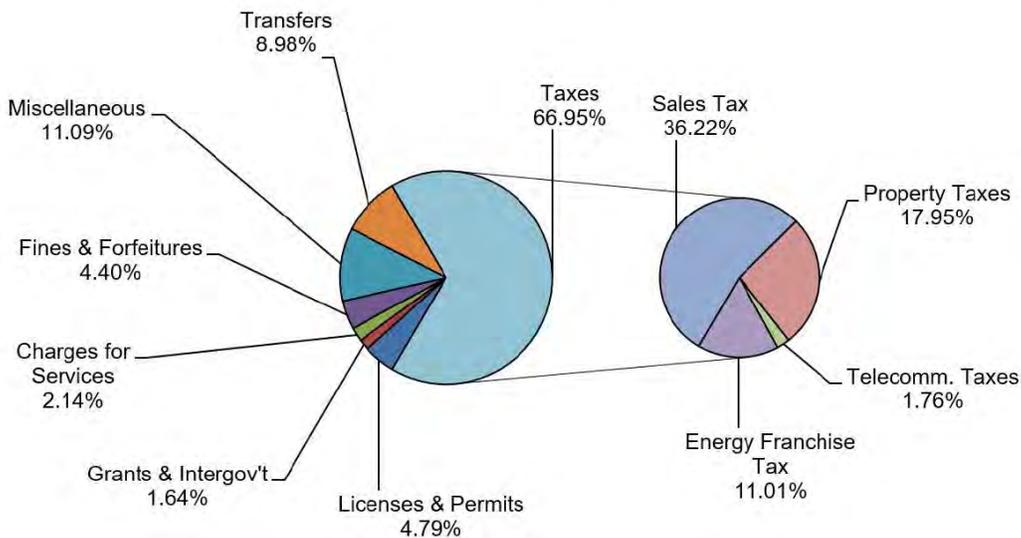


## General Fund

The General Fund is the primary operating fund for most government activities and is the fund that elected officials have the most discretion in how revenues are spent. The General Fund supports services such as police, fire & EMS, streets, parks, city planning, building inspection, administration & finance, facility & grounds maintenance, etc. The General Fund does not include utility funds, RDA funds, recreation funds, or PARC tax funds. The charts below show the breakdown of revenue sources and expenditures by department for the FY2019 General Fund.

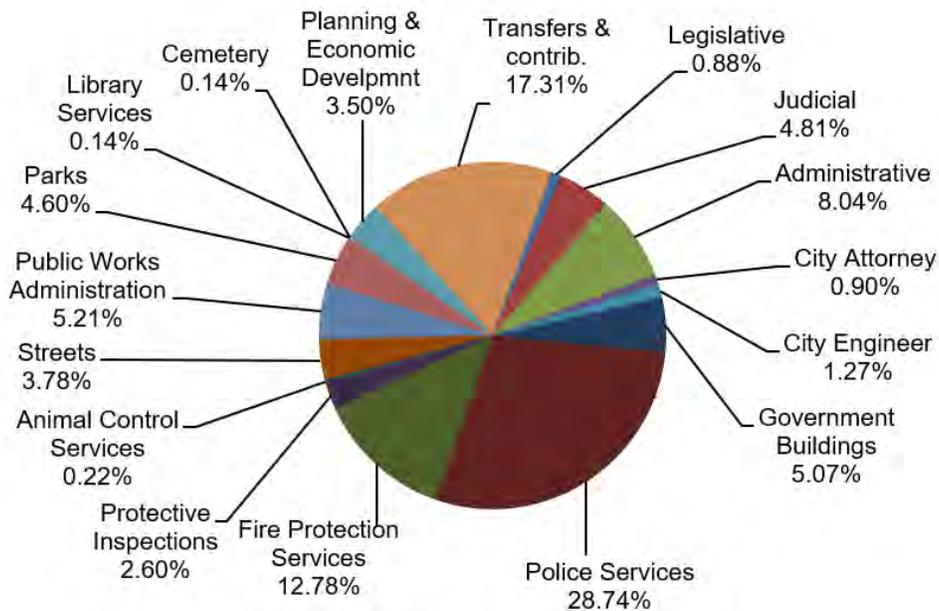
### GENERAL FUND REVENUES

Total = \$11,806,058



### GENERAL FUND EXPENDITURES BY DEPARTMENT

Total Expenditures = \$11,806,058



## What are the primary taxes that the City collects?

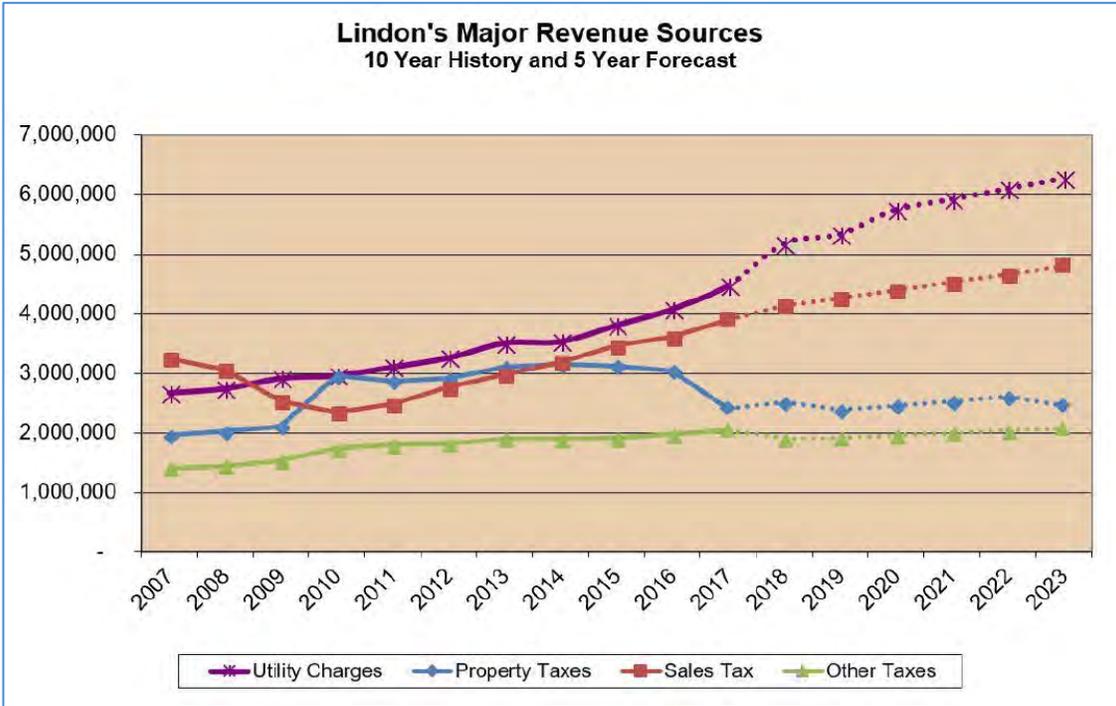
**Sales Tax:** Of all the taxes, Lindon City receives the most revenue from sales tax and forecasts receiving about \$4.27 million in sales taxes this fiscal year. The combined sales tax rate in Lindon is 6.85%. The rate is a combination of various sales tax assessments with the majority of the tax rate going to the State of Utah (4.7%) and the remaining going to the City (1%), Utah Transit Authority (0.55%), Utah County (0.5%), and Lindon's PARC tax (0.1%). The Utah State Tax Commission collects all of the sales tax. The State requires cities to share half of their collected sales tax which is then pooled and re-distributed back to every city based on population. Since Lindon has a smaller population the City is only able to retain a little more than half of the sales taxes it generates. Therefore, the City's *functioning* sales tax rate is about 0.65%.

**Property Tax:** Property taxes are assessed at rates set by the taxing entity (School District, City, County, Special Service Districts) and collected by Utah County. The County sends assessors to all properties to be appraised then a tax bill is created based on those appraisals. Homes used as a primary residence are taxed at 55% of the assessed value, while secondary homes and non-residential properties (commercial, industrial) are taxed at 100% of the assessed value. Lindon's largest property tax payers are commercial, office, and industrial properties. Lindon anticipates receiving about \$2.11 million in property tax revenues this fiscal year.

**Franchise Tax:** The City charges utility franchise taxes (fees) on energy, cable, and telecommunication activities within the City. Most private utility service companies use Lindon's streets and right-of-ways to install their infrastructure and do business. Cities commonly assess fees for the use of these public corridors. Lindon's franchise tax rates match that of most other Utah cities. Lindon anticipates receiving about \$1.3 million in franchise taxes this fiscal year.

## Revenue Projections

The chart below shows a ten year history and five year forecast for Lindon's major revenue sources consisting of utility charges, sales tax, property tax, and other taxes. As the City grows



Lindon anticipates increased sales tax, increased utility charge collections (as new homes and businesses develop), and gradual increases in property valuations. With the ever improving economy and an optimistic outlook for new business growth along our 700 North corridor, Lindon's projection for future revenues is very positive.

Note that the projected drop on property taxes received by the City (blue line) is due to special tax disbursements expiring in Lindon's **Redevelopment Areas (RDA)**. Lindon's RDA's will no longer receive a higher proportion of the property taxes for those RDA areas, thus the projected decrease in total property tax revenues.

## Future Challenges

While the outlook for Lindon in this growing economy is very positive the City still has its share of current and future challenges.

**Road Funding:** Many cities are facing shortages in available funds for maintenance, repair, and replacement of roadway infrastructure. Lindon annually receives about \$360k-\$440k from State gas taxes and transportation funds based on fuel sales and road miles in the City.



While this sounds like a lot of money the cost of road construction does not allow it to stretch very far. Lindon recently reconstructed 1/2 mile of roadway at a cost of about \$220k. With nearly 55 miles of Lindon streets the gas tax and state funding just isn't enough to keep roads throughout the entire city in good condition. Lindon engineers estimate it will take \$1.2 million or more per year to keep 70% of Lindon's roadways in good to fair condition.

The City Council is carefully watching State initiatives and legislation that may increase road funding. They are also exploring a transportation utility fee as a possible funding option. Sustainable and consistent road maintenance funding is Lindon's biggest financial challenge.



**Aging Utility Infrastructure:** Much of the City's water, secondary water, sewer, and storm water utilities were installed several decades ago. As these utilities age they will eventually fail and need to be repaired and/or replaced. The City's utility rates have historically been set at adequate levels to provide and maintain the services but, for many years, the rates were not sufficient to replace large amounts of aging infrastructure. Over several years the City has initiated small increases to utility rates for replacement of infrastructure and to keep up with inflationary costs.

**Managing Growth:** New development and growth brings jobs, housing, and shopping – and with that growth comes increased traffic and demand for city services. Lindon's 700 North corridor (North County Blvd) and the I-15 Lindon/PG interchange are ripe for development. The City has made efforts to plan appropriate types of land uses along the corridor and is carefully monitoring growth so as to not overburden services and utilities. A special revenue area has been created along the corridor to help fund utility improvements with increased property tax

revenues as new development occurs. The City and UDOT are also planning for future interchange improvements, widening, and traffic signal improvements in the area.

Lindon's City Engineer and Planning Director were recently successful in obtaining \$706,000 in transportation grant funding to help improve and expand the 200 South Geneva Road intersection & traffic signal. The location has seen a substantial increase in traffic and congestion primarily due to business growth in Lindon's industrial areas. Lindon's elected officials and staff are constantly seeking funding for transportation projects and are well aware of the need for future traffic and transit improvements in Lindon.



## Get Involved!

Citizens can get involved in the budget process by attending annual public budget hearings and budget discussions with the City Council. The City makes the proposed budget for the upcoming fiscal year available to citizens in late April or early May. From May to June the City Council holds meetings on the budget where citizens can come express their views and ask questions about the budget. Questions and comments at other times are always welcome.

Finalized budget, tax information, fee schedules, and associated documents are available for download through the city website at [www.lindoncity.org](http://www.lindoncity.org).

Lindon City, 100 North State Street, Lindon, Utah 84042 (801)785-5043 [www.lindoncity.org](http://www.lindoncity.org)

### **Item 3 – Approval of Minutes**

- Review and approval of City Council minutes: **June 19, 2018**

2 The Lindon City Council held a regularly scheduled meeting on **Tuesday, June 19, 2018,**  
 4 **beginning 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: Alan Walker  
 10 Invocation: Jeff Acerson

12 **PRESENT**

Jeff Acerson, Mayor  
 14 Matt Bean, Councilmember  
 Carolyn Lundberg, Councilmember  
 16 Jacob Hoyt, Councilmember – arrived 8:03  
 Daril Magleby, Councilmember  
 18 Adam Cowie, City Administrator  
 Kathryn Moosman, City Recorder

**EXCUSED**

Van Broderick, Councilmember

- 20
- 22 1. **Call to Order/Roll Call** – The meeting was called to order at 7:00 p.m.
  - 24 2. **Presentations/Announcements** –
    - 26 a) **Comments/Announcements from Mayor and Council** – There were no  
 announcements at this time.
    - 28 b) **Presentation:** Alan Walker, Pool Manager, was chosen for the quarterly  
 Employee Recognition Award. Adam Cowie, City Administrator, read  
 30 comments submitted by employees nominating Mr. Walker for this award.  
 He then presented him with a plaque and gift card in appreciation for his  
 32 service. The Mayor and Council also congratulated and thanked Mr. Walker  
 for his exemplary example, service and good works for the city.
    - 34 a) **Presentation:** Kristen Colson, Finance Director, was recognized for obtaining  
 the Government Finance Officers Association Certificate of Achievement for  
 36 Excellence in Financial Reporting for the fiscal year ended 2017 (CAFR)  
 Comprehensive Annual Financial Report) Mr. Cowie noted this is the ninth  
 year of receiving this award. He then presented the award to Ms. Colson.  
 Mayor Acerson and the Council thanked Ms. Colson for her service and  
 38 dedication to the city.
    - 40 b) **Presentation:** Kathryn Moosman, City Recorder, was recognized for  
 obtaining the Master Municipal Clerk (MMC) professional designation  
 granted through the International Institute of Municipal Clerks after having  
 42 completed significant training and education requirements. Leigh Ann  
 Warnock and Susan Farnsworth from the Utah Municipal Clerk’s Association  
 44 presented a plaque and plant to Ms. Moosman in recognition of receiving the  
 MMC designation. Mayor Acerson and the Council also thanked Ms.  
 46 Moosman for her efforts and good service to the city.

2 3. **Approval of Minutes** – The minutes of the regular meeting of the City Council  
meeting of June 5, 2018 were reviewed.

4

COUNCILMEMBER LUNDBERG MOVED TO APPROVE THE MINUTES  
6 OF THE REGULAR CITY COUNCIL MEETING OF JUNE 5, 2018 AS AMENDED.  
COUNCILMEMBER BEAN SECONDED THE MOTION. THE VOTE WAS  
8 RECORDED AS FOLLOWS:

COUNCILMEMBER LUNDBERG AYE  
10 COUNCILMEMBER BEAN AYE  
COUNCILMEMBER MAGLEBY AYE  
12 THE MOTION CARRIED UNANIMOUSLY.

14 4. **Consent Agenda Items** – No consent agenda items at this time.

16 5. **Open Session for Public Comment** – Mayor Acerson called for any public  
comment not listed as an agenda item. There were several residents in attendance  
18 who addressed the Council at this time as follows:

20 Grant Mendenhall expressed his concerns as a legal basement apartment owner in  
a single-family residence. He noted he pays \$500 a year due to the doubling of water and  
22 sewer rates and taxes etc. His concern is that he has spent the money to have his  
apartment be legal and he continues to pay to stay legal. He knows there are a lot of  
24 people with basement apartments in the city that are not legal and he would like to know  
what is being done to rectify that. He understands the city transfers money out of the  
26 water fund into the general fund, but for those who are legal and have been paying into  
this fund, it is coming out of their pockets because they are not provided any extra service  
28 but their bills are double.

Adam Cowie, City Administrator clarified the hookup charges for sewer and  
30 water noting in general, accessory apartments are treated like a separate household and  
there is a usage rate and the base rate for each unit. Mr. Cowie indicated there have been  
32 instances where the primary owner is gone and are renting the basement, so the base rate  
is reflective and functions like two separate units.

34 Mr. Mendenhall stated one of the complaints is there is a fair amount of people  
that are renting out but they are not legal so they are saving \$500 per year. He proposed  
36 deputizing someone to make sure people are compliant. Mr. Cowie commented the  
difficulty is that no one is willing to turn in their neighbors and the city must rely on a  
38 complaint basis only. Mr. Mendenhall suggested sending out a list of the legal apartments  
in the city to the legal owners so they can look for those who are not in compliance.  
40 Mr. Cowie stated the complaint basis is the only way to enforce it and the city is actively  
enforcing this method.

42 Mallory Christensen was in attendance to follow up on the Avalon parking  
situation and if the Council was able to figure out a solution. Mr. Cowie commented the  
44 Public Works Department is going to install signs along the fence area notifying the 48  
hrs. street parking restriction. Mayor Acerson stated he and the Planning Director met  
46 with the owner of Avalon and they are committed to following the law and are striving to

2 assimilate into the community which is a good step forward. They are also planning to  
4 expand their parking lot.

6 **CURRENT BUSINESS**

8 **6. Public Hearing — Budget Adoption for FY2019; Amend FY2018 Budget**  
10 **(Ord. 2018-10-O).** Kristen Colson, Lindon City Finance Director, will present the  
12 final Lindon City Budget documents for fiscal year 2018-2019 (FY2019)  
14 beginning July 1, 2018. The tentative budget for FY2019 was approved in a  
16 public hearing on April 3, 2018. The City Council also held a public meeting on  
18 the proposed budget on May 1, 2018 and a public hearing on May 15, 2018 where  
the proposed budget was adopted and budget issues were discussed in detail. The  
City Council will review and adopt the amended budget for FY2018, will review  
and adopt the final budget for FY2019, will review and adopt the agreement for  
services between the City and the Lindon City RDA, will set the Certified Tax  
Rate, and review and adopt the citywide fee schedule and compensation  
programs.

20 COUNCILMEMBER BEAN MOVED TO OPEN THE PUBLIC HEARING.  
22 COUNCILMEMBER MAGLEBY SECONDED THE MOTION. ALL PRESENT  
VOTED IN FAVOR. THE MOTION CARRIED.

24 Kristen Colson, Finance Director, gave a brief overview of this agenda item  
26 noting the City has held multiple meetings to discuss and get direction on the final budget  
as presented tonight. Ms. Colson then reviewed the highlights of the final budget and any  
new budget details not already discussed in prior public meetings as follows:

28 New Fee Schedule Changes:

30 **Aquatics Center:**

Admission, Group Rates

Youth Organization Group Rates, per person \*NEW\* \$3.00

32 Fitness / Lap Swim Time

Senior (55+) admission ~~\$3.50~~ \$1.50

34 Pavers, personalized

3" x 6" \*NEW\* \$50.00

6" x 6" \*NEW\* \$100.00

38 Rentals

Wibit Wiggle Bridge Rental, only with facility rental \*NEW\* \$100.00

Early Entrance for Rental Set Up \*NEW\* \$200.00

40 Rental Notes:

- 42 • The Parks and Recreation Director may offer “Prime” party rental nights by auction in  
44 order to give competing party renters the ability to pay more to secure the date they  
desire. The minimum price will be the regular rate.
- 46 • In order to encourage additional sales, rental rates may be reduced at the discretion the  
Parks and Recreation Director after June 30.
- 48 • The Parks and Recreation Director may offer discounted admission rates to patrons for  
after-hours swimming on nights that are not fully booked.

|    |  |          |               |
|----|--|----------|---------------|
| 2  | Resident Season Passes                                     |          |               |
|    | Family Pass  |          |               |
| 4  | Up to 5 members of immediate family                        | \$285.00 | \$285.00 +Tax |
|    | Additional immediate family member                         | \$20.00  | \$20.00 + Tax |
| 6  | Senior Pass (55+)  | \$82.50  | \$82.50 + Tax |
| 8  | Swim Lesson Cancellation Fee, per participant, per session | \$10.00  | \$5.00        |
|    | Swim Team Cancellation Fee, per participant                | *NEW*    | \$10.00       |
| 10 | <b>Cemetery:</b>   |          |               |
|    | Headstone Inspection and Setting Fee                       | *NEW*    | \$75.00       |
| 12 | Paid for by headstone company prior to installation        |          |               |
|    | Miscellaneous  |          |               |
| 14 | Property Tax Certified Tax Rate (CTR)                      | -0.1451% | 0.1392%       |
|    | Rentals (Parks)  |          |               |
| 16 | Water Key Use Fee  | \$15.00  | \$20.00       |

18 Ms. Colson noted this Budget Includes the following Budget Issues:

- 20 • Employee salary and wage increase
  - 22 • COLA: 2.1%
  - 22 • Merit (for employees in the mid to high range):
    - 22 • 0.9% on wages, and
    - 24 • 1.0% one-time payout
- 24 • Water, Sewer and Storm Water utility rate changes
  - 26 • Water:
    - 26 • 9% increase on both base and usage rate for 1” meter in Zones 2 & 3
    - 28 • Rate changes as recommended by JUB for larger meters and/or upper zones
  - 30 • Sewer: Base rate remains the same and usage rate decreases 25%
  - 30 • Storm Water: 13% increase
- 32 Employee Health Insurance
  - 32 • Health insurance increase of 5.3%
  - 34 • Discontinue extra benefit of \$50 for single and \$100 double after June 30, 2019

36 Ms. Colson then reviewed the Citywide Expenditures by fund with the total expenditures at \$24,050,748 including fund balances and transfers. She also referenced the Total City Revenues at \$20,168,958 (net fund balances and transfers) and the Citywide Expenditures by Object with total expenditures at \$21,196,332 (net fund balances and transfers). She concluded by reviewing the General Fund Expenditures at \$11,806,058. She noted this budget will be submitted to the Government Finance Officers Association.

42 At this time Heath Bateman, Parks and Recreation Director, made one change to the fee schedule regarding assessing a fee for pool party cancellations of \$100.00 with an advance notice of two weeks unless there are extenuating circumstances. Ms. Colson stated this change will be added to the fee schedule.

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

2 COUNCILMEMBER MAGLEBY MOVED TO CLOSE THE PUBLIC  
HEARING. COUNCILMEMBER LUNDBERG SECONDED THE MOTION. ALL  
4 PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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

8  
10 COUNCILMEMBER LUNDBERG MOVED TO APPROVE ORDINANCE  
#2018-10-O APPROVING AND ADOPTING A BUDGET FOR THE FISCAL YEAR  
12 2018-2019 (FY2019), AMENDING THE BUDGET FOR THE 2017-2018 FISCAL  
YEAR (FY2018), SETTING THE CERTIFIED TAX RATE, ADOPTING A FEE  
14 SCHEDULE, ADOPTING THE COMPENSATION PROGRAMS, AND ENTERING  
INTO AN AGREEMENT WITH THE LINDON REDEVELOPMENT AGENCY.  
16 COUNCILMEMBER MAGLEBY SECONDED THE MOTION. THE VOTE WAS  
RECORDED AS FOLLOWS:

18 COUNCILMEMBER LUNDBERG AYE  
COUNCILMEMBER BEAN AYE  
20 COUNCILMEMBER MAGLEBY AYE  
THE MOTION CARRIED UNANIMOUSLY.

22 **7. Recess to Lindon City Redevelopment Agency Meeting (RDA).**

24 COUNCILMEMBER MAGLEBY MOVED TO RECESS THE MEETING OF  
THE LINDON CITY COUNCIL AND CONVENE THE MEETING OF THE LINDON  
26 CITY REDEVELOPMENT AGENCY AT 7:50 P.M. COUNCILMEMBER BEAN  
SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION  
28 CARRIED.

30 BOARDMEMBER LUNDBERG MOVED TO ADJOURN THE MEETING OF  
THE LINDON CITY RDA AND RE-CONVENE THE MEETING OF THE LINDON  
32 CITY COUNCIL MEETING AT 7:55 P.M. BOARDMEMBER MAGLEBY  
SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION  
34 CARRIED.

36 **8. Public Hearing — Ordinance Amendment, Standard Land Use Table;  
Overhead Power.** Jacob McHargue, with Vineyard City, requests approval of  
38 Ordinance 2018-8-O for an amendment to the Lindon City Standard Land Use  
Table to allow overhead power poles/lines (less than 35K) to be permitted west of  
40 the UTA commuter railroad tracks. The Planning Commission recommends  
approval.

42  
44 COUNCILMEMBER LUNDBERG MOVED TO OPEN THE PUBLIC  
HEARING. COUNCILMEMBER BEAN SECONDED THE MOTION. ALL PRESENT  
VOTED IN FAVOR. THE MOTION CARRIED.

46

2 Mr. Van Wagenen gave a brief background of this agenda item noting the growth  
 4 of Vineyard City requires additional Rocky Mountain power lines from a local substation  
 6 to service the area. He noted Chris Wilson, Assistant City Engineer for Vineyard City, is  
 8 in attendance for this item. He explained this service is designed to cross Lindon City  
 10 property at the Geneva Park property near the boat harbor. He referenced the map  
 12 showing the proposed power line run. He indicated that because of the demands of  
 14 growth, the new line needs to be built as soon as possible. He noted Lindon’s Standard  
 16 Land Use Table does not permit above ground electrical utility lines that are less than 35  
 18 kilovolts and the line requested is 12.5 kV. He pointed out in order to facilitate the  
 20 construction of the needed lines, Vineyard City is requesting a change to the Standard  
 22 Land Use Table to allow such lines west of the commuter railroad tracks (that are less  
 than 35Kv).

14 Mr. Van Wagenen stated staff feels it is important to be good neighbors to  
 16 Vineyard and this is just filling the gap. He indicated the majority of the Planning  
 18 Commission was in favor of this but there was some discussion regarding the frustration  
 20 at accommodating Rocky Mountain Power because they been difficult to work with in  
 22 clearing up some parcel issues in the area. Ultimately, the Commission asked staff to  
 reach out to Rocky Mountain Power and see what could be done and recommended  
 approval of the ordinance in a 6-0 vote. Mr. Van Wagenen stated that overall this is a  
 pretty minimal impact to Lindon and limited in its scope to where it will affect an  
 infrastructure in Lindon.

24 Mr. Wilson informed the Council that the powerline project will be a direct  
 26 benefit to Vineyard. He noted one main reason for the tight construction timeline is a  
 permit deadline that Rocky Mountain Power has to make the railroad crossing and  
 missing this deadline would result in additional costs to the project.

28 Mr. Van Wagenen stated Staff is comfortable with this request because of its  
 30 limited area of impact and the fact that Lindon has initiated a boundary change with  
 32 Vineyard City to place this property in Vineyard. He noted this boundary change stems  
 from Lindon’s sale of city owned property to Vineyard for their public works yard. The  
 ordinance request is based on timing, as the power line needs to get constructed as soon  
 as possible, but the Lindon/Vineyard border change may take months to take effect.

34 Mr. Van Wagenen then referenced the requested change to the Standard Land Use  
 Table as follows:

Lindon City STANDARD LAND USE TABLE BY ZONE Appendix A

| Parking Group | Permitted Primary Uses   | Residential        |       | Mixed Rec. |      | Commercial* |    |      |       |      |    | Industrial |   | R&B |
|---------------|--|--------------------|-------|------------|------|-------------|----|------|-------|------|----|------------|---|-----|
|               |  | (R1-12, R1-20, R3) | RMU-W | RMU-E      | PC-1 | PC-2        | CG | CG-A | CG-A8 | CG-S | MC | HI         | U |     |
| 4000          | Electric Utility Lines - above ground and less than 35 kV (lines located west of commuter railroad tracks are permitted) | N                  | N     | N          | N    | N           | N  | N    | N     | N    | N  | N          | N | N   |

36 Mr. Van Wagenen also presented the Proposed power line alignment, Location of  
 38 commuter railroad tracks, Lindon/Vineyard Boundary Adjustment, Types of power lines  
 40 graphic, Street View of existing area where new lines are proposed and Ordinance #2018-  
 8-O followed by some additional discussion.

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

2 COUNCILMEMBER MAGLEBY MOVED TO CLOSE THE PUBLIC  
HEARING. COUNCILMEMBER LUNDBERG SECONDED THE MOTION. ALL  
4 PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

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

8  
10 COUNCILMEMBER BEAN MOVED TO APPROVE ORDINANCE #2018-8-0  
AS PRESENTED. COUNCILMEMBER MAGLEBY SECONDED THE MOTION.  
THE VOTE WAS RECORDED AS FOLLOWS:

12 COUNCILMEMBER LUNDBERG AYE  
13 COUNCILMEMBER BEAN AYE  
14 COUNCILMEMBER MAGLEBY AYE  
THE MOTION CARRIED UNANIMOUSLY.

16 *Councilmember Hoyt arrived at this time - 8:03pm*

18  
20 **9. Review & Action — Easement Agreement between Vineyard & Lindon for  
Power line.** This item was continued from the May 1, 2018 meeting. The City  
Council will review and consider a Utility Right of Way Easement Agreement  
22 between Lindon City and Vineyard Town to exchange an easement for a power  
line for 3-acre feet of water credit with Vineyard; water to be used on the future  
24 Geneva Resort Park.

26 Mr. Cowie explained this is a Utility Right of Way Easement Agreement between  
Lindon City and Vineyard Town to exchange a 10,590 sq./ft easement for a power line  
28 for 3-acre feet of water credit with Vineyard. He noted the water is to be used on the  
future Geneva Resort Park area next to the Lindon Marina; the water credit is valued at  
30 approximately \$10k. He indicated Lindon has no utility services available in this area and  
anticipates needing to connect to Vineyard utilities when the park is developed. He stated  
32 this easement transaction came to the Council a couple years ago but had no  
compensation proposed, and therefore was not approved at that time.

34 Mr. Cowie commented the exchange for water has been discussed for many  
months between Staff at the two cities, with the Vineyard Town Council recently  
36 approving this agreement. He noted the easement area is within the portion of property  
under contract to be sold to Vineyard. He indicated the easement area can still be used for  
38 landscaping, parking, etc. but would prohibit buildings or permanent structures. Mr.  
Cowie pointed out since the Council approved the prior agenda item allowing overhead  
40 power lines west of the railroad tracks staff would advise the Council to grant this  
easement agreement.

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

44  
46 COUNCILMEMBER HOYT MOVED TO APPROVE THE UTILITY RIGHT-  
OF-WAY EASEMENT AGREEMENT BETWEEN LINDON CITY AND VINEYARD  
TOWN WITH ASSOCIATED EASEMENT GRANTED TO ROCKY MOUNTAIN

2 POWER. COUNCILMEMBER BEAN SECONDED THE MOTION. THE VOTE WAS  
RECORDED AS FOLLOWS:

- 4 COUNCILMEMBER LUNDBERG AYE
- COUNCILMEMBER BEAN AYE
- 6 COUNCILMEMBER HOYT AYE
- COUNCILMEMBER MAGLEBY AYE

8 THE MOTION CARRIED UNANIMOUSLY.

10 10. COUNCIL REPORTS:

12 **Councilmember Hoyt** – Councilmember Hoyt reported he attended the Historic  
Preservation Commission annual dinner noting they are a very active and engaged  
14 committee and he appreciates their willingness to serve.

16 **Councilmember Broderick** – Councilmember Broderick was absent from the meeting.

18 **Councilmember Bean** – Councilmember Bean commented he has been asked by several  
residents near the Walker property off of Center Street that Ivory is looking at about  
20 having smaller lots. Mr. Van Wagenen stated he has not heard anything lately and most  
developers can’t develop for the price they are asking for the property and they want a  
22 rezone that cannot be done.

24 **Councilmember Lundberg** – Councilmember Lundberg reported she met with several  
interested parties and potential developers on the 700 North Corridor. She also expressed  
26 her appreciation to the Council for supporting the retail show that Mr. Van Wagenen  
attended in Las Vegas noting she feels it is important to be proactive and she hopes  
28 something concrete comes through. She also reported she was contacted by a resident  
about headstone requirements particularly, cement around the headstone. Mr. Cowie  
30 stated the 6” concrete border requirement was put in 20 years ago to protect the  
headstone. He noted the monument company is required to install the border. Mr. Cowie  
32 stated he will follow up with the Public Works Director on this issue.

34 **Councilmember Magleby**– Councilmember Magleby reported on the upcoming Lindon  
Days Celebration. He also passed a sheet to the Councilmembers showing new events  
36 and talked about activities they would like to attend. The Council also discussed names  
for the Grand Marshall’s for 2018 Lindon Days.

38 **Mayor Acerson** – Mayor Acerson reported he participated in the groundbreaking for the  
40 new pedestrian walkway over I-15 at Utah Valley University noting it was a good event  
with a good turnout and a lot of support. He will also be attending the Transportation  
42 Committee meeting at the Capitol on governance of the UTA tomorrow to present  
legislative updates. He noted Comcast will be offering scholarships and he has been  
44 asked to participate in that event. He also met with the new President of the University of  
Utah along with other Mayors which was a good meeting. He stated President Watkins is  
46 trying to be more inclusive to the whole state and she is open to suggestions to represent  
the entire state.

2       11. **Administrator's Report:** Mr. Cowie reported on the following items followed by  
 4       discussion.

6       **Misc. Updates:**

- 6       • June - City newsletter
- 8       • July newsletter article: Van Broderick - Article due to Kathy Moosman last week  
 in June
- 10      • Council needs to select a Grand Marshal for 2018 Lindon Days.
- 12      • MAG Transportation Improvement Program (TIP) grant funding was awarded:  
 14      Efforts primarily made by Planning Director Hugh Van Wagenen and City  
 Engineer Noah Gordon will provide \$2,006,000 in grant funding for traffic  
 congestion (200 South & Geneva Rd intersection) and completion of the Lindon  
 Heritage Trail to the lake. Funds will be made available in 2021.
- 16      • Primary Elections: Mail-in ballots must be postmarked by June 25<sup>th</sup> or dropped  
 off at City Center. On Election day (June 26<sup>th</sup>) ballots can be dropped off at  
 Election Day Service Centers (Lindon Community Center).
- 18      • Misc. Items

20      **Upcoming Meetings & Events:**

- 22      • Movies in the Park: June 1<sup>st</sup>, June 22<sup>nd</sup>, July 13<sup>th</sup>, August 7<sup>th</sup>
- 24      • Saturday, June 30<sup>th</sup> at Noon – Lindon Police Dept. hotdog lunch for public.
- 26      • Wednesday, July 4<sup>th</sup> – Offices closed
- 28      • Thursday, July 12<sup>th</sup> – Employee Summer party and dinner at Hollow Park at 6:00  
 pm
- 30      • Tuesday, July 24<sup>th</sup> – Offices closed
- 32      • August 6<sup>th</sup> -11<sup>th</sup> Lindon Days

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

38      **Adjourn** –

40      COUNCILMEMBER LUNDBERG MOVED TO ADJOURN THE MEETING  
 42      AT 9:00 PM. COUNCILMEMBER HOYT SECONDED THE MOTION. ALL  
 44      PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

Approved – July 3, 2018

\_\_\_\_\_  
 Kathryn Moosman, City Recorder

\_\_\_\_\_  
 Jeff Acerson, Mayor

**Item 4 – Consent Agenda** – *Consent agenda may contain items which have been discussed beforehand and/or do not require significant discussion, or are administrative in nature, or do not require public comment. The Council may approve all Consent Agenda items in one motion, or may discuss individual items as needed and act on them separately.*

- a) Authorize the Mayor to sign a change order adding \$225,000 to the Lindon City 2017 Street Maintenance Projects contract previously awarded to Staker & Parson Companies to complete the 200 South overlay project between approx. 1300 West to 2000 West. The contractor has agreed to hold prices that were approved in their original 2017 bid. This amount was appropriated in the FY2019 road fund budget.

**Sample Motion:** *I move to approve the Consent Agenda items.*

# Change Order No.3

Date of Issuance: 7/12/2018

Effective Date: \_\_\_\_\_

|  |                                   |                                      |
|--|-----------------------------------|--------------------------------------|
| Project:<br>Lindon City 2017 Street Maintenance Projects | Owner:<br>Lindon City Corporation | Owner's Contract No.:                |
| Engineer:<br>J-U-B Engineers, Inc.                       |                                   | Date of Contract:                    |
| Contractor:<br>Staker & Parson Companies                 |                                   | Engineer's Project No.:<br>50-16-061 |

**The Contract Documents are modified as follows upon execution of this Change Order:**

Description: Additional street maintenance work on 200 South

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Attachments: (List documents supporting change): Summary, Attachments

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| CHANGE IN CONTRACT PRICE:   | CHANGE IN CONTRACT TIMES:   |
|---|---|
| Original Contract Price:<br><br>\$770,337.14  | Original Contract Times: <input type="checkbox"/> Working days <input checked="" type="checkbox"/> Calendar days<br><br>Substantial completion (days or date): <u>75</u><br>Ready for final payment (days or date): <u>90</u> |
| [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>2</u> :<br><br>\$252,362.42 | [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>2</u> :<br>Substantial completion (days): <u>26</u><br>Ready for final payment (days): <u>26</u>  |
| Contract Price prior to this Change Order:<br><br>\$1,022,699.56  | Contract Times prior to this Change Order:<br>Substantial completion (days or date): <u>101</u><br>Ready for final payment (days or date): <u>116</u>   |
| <b>[Increase]</b> [Decrease] of this Change Order:<br><br><b>Approximately \$225,000.00</b>                     | [Increase] [Decrease] of this Change Order:<br>Substantial completion (days or date): <u>415</u><br>Ready for final payment (days or date): <u>415</u>  |
| Contract Price incorporating this Change Order:<br><br>Approximately \$1,247,699.56                             | Contract Times with all approved Change Orders:<br>Substantial completion (days or date): <u>516</u><br>Ready for final payment (days or date): <u>531</u>  |

|   |   |  |
|---|---|--|
| RECOMMENDED:                                      | ACCEPTED:                                 | ACCEPTED:                                      |
| By: _____<br>Engineer (Authorized Signature)      | By: _____<br>Owner (Authorized Signature) | By: _____<br>Contractor (Authorized Signature) |
| Date: _____                                       | Date: _____                               | Date: _____                                    |
| Approved by Funding Agency (if applicable): _____ | _____                                     | Date: _____                                    |

# Change Order

## Instructions

---

### A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

### B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

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

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**6. Public Hearing — Zoning Map Amendment; PC-2 to PC-1; 452 S. 800 W. (Ord. 2018-12-O)**  
*(10 minutes)*

Lindon City requests approval of Ordinance 2018-12-O consisting of a zone map amendment from Planned Commercial-2 (PC-2) to Planned Commercial-1 (PC-1) for parcel #46:937:0201 (Lot 201, Plat B, Murdock Cars of Lindon Subdivision), located at 452 South 800 West. The Planning Commission recommends approval.

See attached materials from the Planning Department.

**Sample Motion:** I move to (approve, deny) Ordinance #2018-12-O.

# Public Hearing — Zoning Map Amendment Planned Commercial 2 to Planned Commercial 1 452 South 800 West

|  |  |
|--|--|
| <p>Applicant: Lindon City Economic Development<br/>Presenting Staff: Hugh Van Wagenen</p> <p>General Plan: Commercial<br/>Current Zone: Planned Commercial 1</p> <p>Property Owner: Murdock Hyundai Real Estate LLC<br/>Address: 452 South 800 West<br/>Parcel ID: 46:937:0201<br/>Area Size: 5.4 acres</p> <p>Type of Decision: Legislative Planning Commission<br/>Recommendation: Approval in 5-0 vote.</p> | <p><b>SUMMARY OF KEY ITEMS</b></p> <ol style="list-style-type: none"> <li>Whether to approve a request to change the Zoning Map designation of the subject property from Planned Commercial 2 to Planned Commercial 1. Planned Commercial 1 does not allow used vehicles sales as a primary use.</li> <li>Staff is requesting this change in order to allow Murdock Hyundai to combine their campus into one lot following the purchase of the Mercedes Benz building. New lots are not allowed to be split zoned.</li> <li>The Planning Commission approved the new one lot subdivision subject to the zoning be cleaned up.</li> </ol> <p><b>MOTION</b><br/>I move (approve, deny, continue) Ordinance 2018-12-O with the following conditions (if any):</p> |
|--|--|

## OVERVIEW

The Planned Commercial 1 (PC-1) zone was created around 1998 when Lindon Park Drive was being constructed. The purposes of the Planned Commercial zone are (1) to provide for development of regional commercial centers that can accommodate retail, office, and service uses in areas that are convenient to the traveling public while protecting the character and quality of adjacent residential areas and the overall community of Lindon; (2) to provide aesthetic controls for building architecture and site development; (3) to provide development guidelines to ensure effective and safe traffic

Area of Zone Change



0 250 500 1,000 Feet



control and movement while creating an aesthetically pleasing traffic environment.

Before Murdock owned their current Hyundai site and before it was developed, it was owned by the Larry H. Miller Group. In 2006, the Miller Group applied for the creation of the Planned Commercial 2 (PC-2) zone in order to have a used vehicle dealership. That application was approved and the PC-2 was applied to the zoning map in its current configuration. The Miller Group leased and eventually sold the property to Murdock Hyundai who is the current owner of the ground.

With Murdock’s purchase of the Mercedes Benz site and desire to combine both sites into one lot, the zoning has to be consistent on the property per Lindon City Code 17.33.040(1)e.

**FINDINGS OF FACT**

1. The General Plan currently designates the property under the category of Commercial. A zone change from PC-2 to PC-1 is still consistent with the General Plan as both fall under Commercial designations.
2. There are a handful of differences in the Land Use Table from PC 1 to PC-2 as illustrated in the table below:

| Permitted Primary Uses                       | Commercial* |      |
|--|-------------|------|
|  | PC-1        | PC-2 |
| <b>RETAIL TRADE</b>                          |             |      |
| Used Cars/Trucks - Used Vehicle Sales Lots   | N           | C    |
| <b>SERVICES</b>                              |             |      |
| Auto Tire Shops / Tire Sales / Tire Services | C           | N    |
| Legal Services                               | P           | N    |
| Engineering & Architectural                  | P           | N    |
| Educational & Scientific Research            | P           | N    |
| Accounting, Auditing & Bookkeeping           | P           | N    |
| Urban Planning                               | P           | N    |

**ANALYSIS**

1. Relevant General Plan policies to consider in determining whether the requested change will be in the public interest:

a. It is the purpose of the *commercial* to provide areas in appropriate locations where a combination of business, commercial, entertainment, and related activities may be established, maintained and protected.

b. The goal of *commercial* development is to encourage the establishment and development of basic retail and commercial stores which will satisfy the ordinary and special shopping needs of Lindon citizens, enhance the City’s sales and property tax revenues, and provide the highest quality goods and services for area residents.

i. Objectives of this goal are to:

1. Expand the range of retail and commercial goods and services available within the community.
2. Provide for adequate access, off-street parking, traffic circulation, noise buffering, and other operational considerations within commercial areas.
3. Improve the image and appearance of commercial areas by adoption of specific design guidelines and possible improvement

districts, especially along State Street, Geneva Road, 200 South 600 South, 700 North and the freeway interchanges off-ramp areas.

4. Promote new office, retail, and commercial development along State Street and 700 North.
5. Encourage development of commercial facilities, such as hotels, restaurants and vehicle-related services at transportation interchanges.
6. Carefully limit any negative impact of commercial facilities on neighboring land-use areas, particularly residential development.
7. Build upon existing commercial site design and development standards, including architectural design guidelines and guidelines for landscaping and signage, to express the desired overall image and identity as outlined in the Community Vision Statement.
8. Encourage safe and convenient pedestrian access to shopping and service areas.

#### ATTACHMENTS

1. Aerial photo of the proposed area to be re-classified
2. **Draft ordinance 2018-12-0**



**ORDINANCE NO. 2018-12-O**

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH COUNTY, UTAH, AMENDING PORTIONS OF THE LINDON CITY ZONING MAP FROM PLANNED COMMERCIAL 2 (PC-2) TO PLANNED COMMERCIAL 1 (PC-1) AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Municipal Council of Lindon City finds it necessary to amend portions of the Lindon City Zoning Map, specifically the properties generally located at the following addresses from Planned Commercial 1 (PC-1) to Planned Commercial 2 (PC-2): 452 South 800 West (Utah County Parcel #49:937:0201) (See map labeled as Exhibit A); and

WHEREAS, Murdock Hyundai is expanding its campus through the purchase of the former Mercedes Benz site; and

WHEREAS, the new campus is being combined into one lot and split zoned lots are not permitted with a plat amendment; and

WHEREAS, the PC-2 designation on said lot was implemented for a used vehicle dealership and is no longer necessary as Murdock Hyundai is a new vehicle dealership; and

WHEREAS, the Planning Commission recommended adoption of the revised provisions, and the revision of such provisions will assist in carrying out general plan goals related to the promotion of businesses and industry within the City, and said changes are compatible with land use guidelines as found in the General Plan; and

WHEREAS, a public hearing was held on July 10, 2018 to receive public input and comment regarding the proposed amendment; and

WHEREAS, no adverse effects were identified by the Commission during the hearing; and

WHEREAS, the Council held a public hearing on July 17, 2018 to consider the recommendation and no adverse effects were identified; and

WHEREAS, the current Zoning Map 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, the Lindon City Zoning Map is hereby amended and will read as follows:

**SECTION I:**

*See Exhibit A showing the subject parcel changing from Planned Commercial 2 (PC-2) to Planned Commercial 1 (PC-1) on the Lindon City Zoning Map.*



**SECTION II:** 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 III:** 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 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

**7. Review & Action — Emery View Subdivision, Plat A (Improvements) ~503 North 150 East**  
*(20 minutes)*

Staff requests approval for a deferment agreement to be created and signed by the Mayor regarding the curb, gutter and sidewalk improvements for the Jared Colledge minor subdivision proposal. The Planning Commission approved the subdivision with the recommendation that the City Council consider a waiver of protest agreement (or deferment agreement) delaying the curb, gutter and sidewalk improvements.

See attached materials from the Planning Department.

**Sample Motion:** I move to have the City Attorney and Staff prepare a waiver of protest agreement (or deferment agreement) delaying the curb, gutter, and sidewalk improvements required of the Emery View Subdivision, Plat A and authorize the Mayor to review and sign the agreement.

# Item: **Emery View Subdivision, Plat A (Improvements)** **~503 North 150 East**

Staff requests approval of a deferment agreement regarding the curb, gutter and sidewalk improvements for the Jared Colledge minor subdivision proposal. Staff recommends requiring the asphalt and associated underlying road improvements.

|  |   |
|--|---|
| <p>Applicant: Staff<br/>Presenting Staff: Planning</p> <p>General Plan: Residential Low<br/>Current Zone: Single Family Residential (R1-20)</p> <p>Property Owners: Alan C Colledge &amp; Colledge Properties<br/>Parcel ID(s): 14-071-0343 and 14-071-0347<br/>Size: 2.27 acres</p> | <p><u>SUMMARY OF KEY ISSUES</u></p> <p>1. Whether or not to defer some of the required public improvements.</p> <p><u>MOTION</u></p> <p><del>I move to (approve, deny, continue) a deferment agreement for the curb, gutter and sidewalk improvements for the Emery View Subdivision, Plat A, with the following conditions (if any):</del></p> <p>1. (See sample motion on previous page.)</p> |
|--|---|

### BACKGROUND

1. The Planning Commission approved the preliminary plan for the proposed three (3) lot residential minor subdivision, consisting of 2.27 acres (Parcels #14-071-0343 and 14-071-0347) in the Residential (R1-20) zone on 07/10/2018. The Planning Commission also recommended that the City Council consider a waiver of protest agreement (or deferment agreement) regarding delaying the curb, gutter and sidewalk improvements.



2. 150 East currently lacks the following street improvements: uniform grading, curb and gutter, as well as sidewalks. There is also no storm drainage system. Due to the lack of improvements on the lots and parcels abutting on either side, installation of these public improvements around the proposed cul-de-sac may not align or work well with future improvements on 150 East (without having a design for the remaining lots along 150 East). This may cause storm drainage and other problems. Staff is concerned with the existing conditions and lack of improvements along 150 E. and support delaying said public improvements around the proposed cul-de-sac associated with the new development.
3. Options for the City Council include:
  - require the applicant to install full public improvements including the curb, gutter, and sidewalk for the new development
  - approve a deferment agreement (or waiver of protest agreement) to guarantee that the improvements can be installed in the future
  - take payment for but not presently install the improvements (until additional projects or design work are completed for 150 E.
  - amend the street cross-section

Please refer to Lindon City Codes (LCC) 17.32.120(6)(e) and 17.32.170. The City Attorney has reviewed the options and feels that the City Council has the ability to authorize deferments, especially when we require a deferment agreement to guarantee the improvements are installed in the future. He recommends that parameters are put in place on when it is appropriate for improvements to be delayed or waived. Once a standard agreement is set up and established, the City Council will not have to spend a lot of time negotiating the terms of the agreement. A sample deferment agreement (Centerville) is attached. Other Cities pursue waiver of protest agreements. That option waives any outlined public improvements but also waives the right of the property owners to protest any future special improvement districts by the City for the installation of the improvements. A sample waiver of protest agreement (Springville) is attached.
4. Considerations may include written findings of the following conditions:
  - minimal pedestrian traffic
  - improvements not warranted to ensure public health and safety
  - properties surrounding the proposed property are without curb, gutter, and sidewalks
  - requiring street improvements would result in disconnected or isolated improvements.

## DISCUSSION & ANALYSIS

### *Lot Requirements (R1-20 zone)*

- Minimum lot size is 20,000 square feet. (Proposal: lot 1 – 21,043, lot 2 – 47,449, lot 3 – 30,315)
- Minimum lot width 100 feet (measured at front yard setback). (Proposal complies)
- Minimum lot depth is one hundred (100) feet. (Proposal complies)
- Minimum public street frontage is fifty (50) feet for standard lots. (Proposal complies)
- Maximum lot width/depth ratio is no more than three times as long as it is wide. (Proposal complies)



#### *Other Requirements*

- Staff has determined that the proposed subdivision complies, or will be able to comply before final plat approval, with all remaining land use standards.
- The City Engineer is addressing engineering standards. All engineering issues will be resolved before final plat approval is granted. The City Engineer may require a temporary border to abut against the edge of asphalt to prevent deterioration. For example, the use of a flat/flush concrete curb mount/border (or another barrier) around the cul-de-sac asphalt bulb.

#### Lindon City Code(s)

##### 17.32.120 Streets.

6. Public streets shall have roadway widths as approved by the city council, but shall in no case be less than the following and meet the following requirements:

e. The Lindon City standard street cross sections and utility locations (Drawing 2a - Lindon City Policies, Standard Specifications and Drawings Manual) and street and trail cross sections and utility

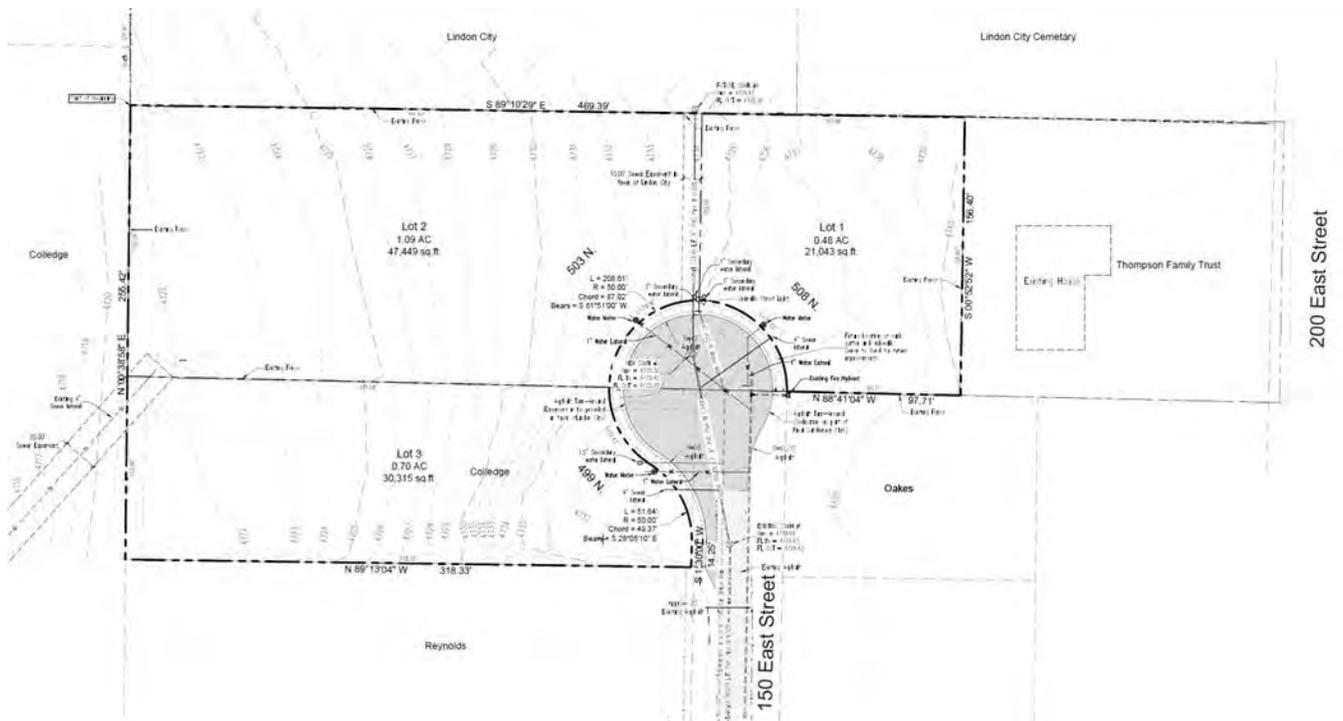
locations (Drawing 2b - Lindon City Policies, Standard Specifications and Drawings Manual) may be amended, changed, altered, and/or revised by the Lindon City Council for new development and/or reconstruction of existing improvements when deemed in the best interest of the general public to resolve or assist in resolving present or anticipated future conflicts with storm drainage improvements, trail and/or pathway access, aesthetics of the community, public safety, and/or other reasons when clearly identified by the city council. Before such time as the city council amends, revises, alters, or changes the above mentioned cross sections, they shall receive a recommendation from the development review committee (DRC) and if deemed necessary by the DRC and/or the city council, the planning commission shall also make a recommendation.

### 17.32.170 Pathways, sidewalks, curbs and gutters.

Sidewalks, curbs and gutters shall be provided on both sides of all streets to be dedicated to the public, except as provided for in 17.32.120(6)(e) and in industrial subdivisions west of Geneva Road where solely curb and gutter shall be required. Right-of-ways identified as part of the Lindon City Pathways and Trails System shall be improved with sidewalks, pathways, planter strips, multi-use trails, equestrian pathways, and trails as per the Parks, Pathways and Trails Element of the Lindon City General Plan and Chapter 17.74. Pathways and Trails of the Lindon City Code. Sidewalks, curbs and gutters may be required by the City Council on existing streets bordering the subdivision.

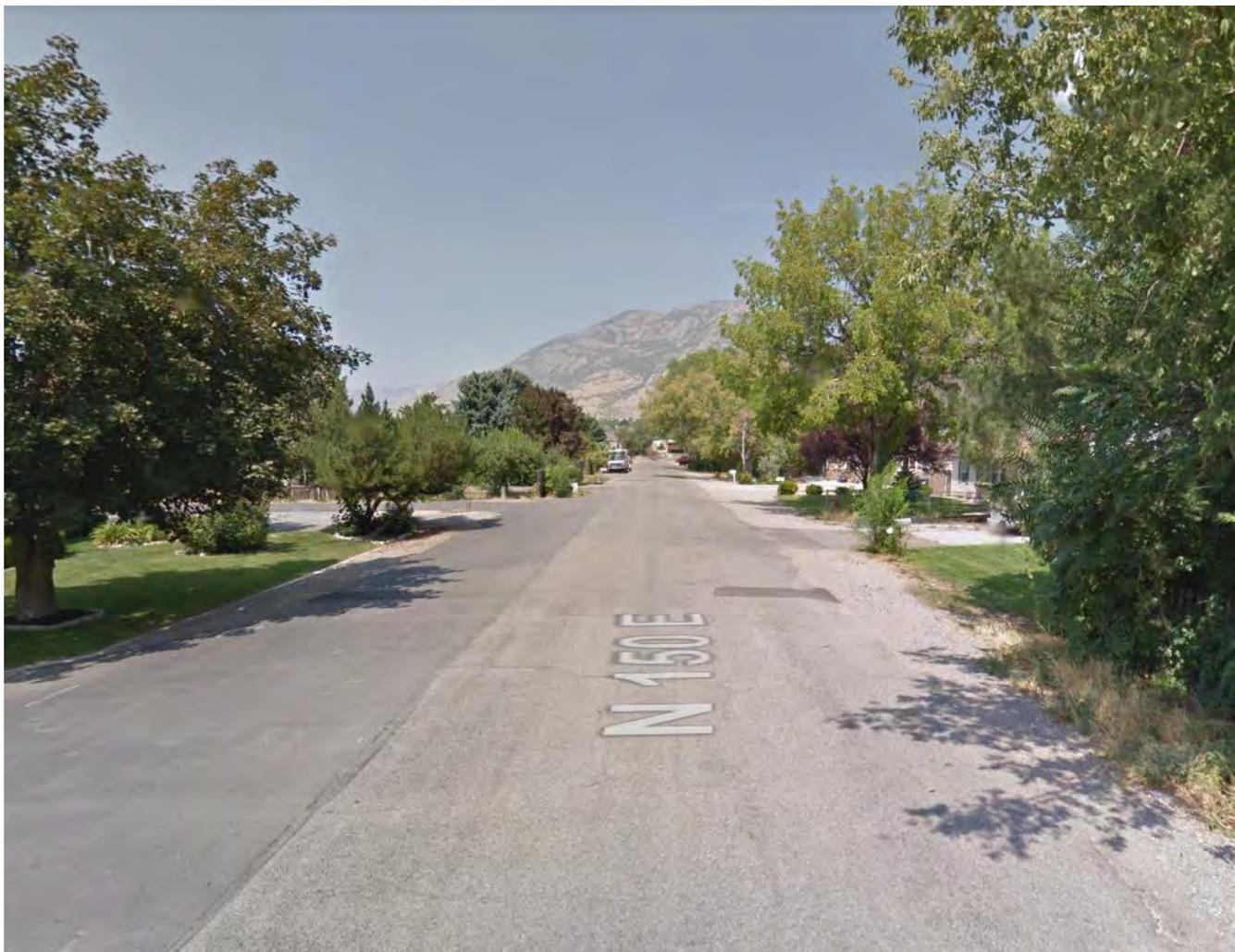
### ATTACHMENTS

1. Preliminary Plat
2. Present Site Conditions











#### **10.04.170 Deferral Of Public Improvements**

- (a) Request for Deferral. In limited circumstance, upon request of the applicant, the City may defer or waive the installation of any required public improvements when deemed appropriate in accordance with the provisions of this Section. The applicant must submit a written request for deferral of public improvements with the Public Works Director. Such written request must include the following:
- (1) Summary of the evidence in support of the request and analysis of the factors required to qualify for the deferral as set forth in Subsection (f);
  - (2) Name and address of applicant;
  - (3) Address, legal description, and parcel number of subject property;
  - (4) Aerial view of subject property and adjacent properties showing existing infrastructure; and
  - (5) Application fee and professional services deposit for deferral agreements as set forth in the City Fee Schedule.
- (b) Public Works Director Review. The Public Works Director shall review the request for deferral of public improvements and confer with other departments or officials as deemed necessary. The Public Works Director shall thereafter prepare a Staff Report and recommendation to the City Council regarding the request.
- (c) City Council Review. The City Council shall review and approve or deny the requested deferral of public improvements based on the factors set forth in Subsection (f).
- (d) Payment of Costs or Deferral Agreement. If the deferral is approved by the City Council, the applicant shall pay his or her share of the costs of such future improvements according to the reasonable estimate of the City Engineer, or may enter into a Deferral Agreement satisfactory to the City assuring completion of said improvements upon the demand of the City. No permit shall be issued until the appropriate costs required herein are deposited with the City or a Deferral Agreement has been executed between the parties and recorded against the property assuring the completion of such improvements upon demand of the City.
- (e) No Temporary Certificate of Occupancy Required. No Temporary Certificate of Occupancy shall be required when the appropriate costs required herein are deposited with the City or a Deferral Agreement has been executed between the parties and recorded against the property for the deferral of specified public improvements.
- (f) Required Factors for Deferral. In order to qualify for the deferral of public improvements, the City Council must determine that there is good cause for the deferral and that the application complies with the following requirements:
- (1) The property is a legally conforming lot or parcel as defined and regulated by the Centerville Zoning Code and applicable provisions of CMC 15 (Subdivisions);
  - (2) The lot or parcel has frontage on a public street;
  - (3) No street improvements exist on the same side of the street contiguous to the lot or parcel in one or both directions, unless otherwise approved by the City Council based on good cause, or the lot or parcel is in an area of the City specifically designated as an area where sidewalks are not required; and
  - (4) The lot or parcel is not within a recorded subdivision, unless otherwise approved by the City Council based on good cause; provided, no deferral of improvements shall be allowed as part of a new subdivision development.
- (g) Veterans and First Responder Expedited Application Procedure. A veteran or service member of the armed forces or any public safety first responder that sustains a service connected disability that requires adjustment to his or her primary residence as a result of the service connected disability, shall be eligible for an expedited review and approval process for any request for deferral application as provided herein. The veteran, service member or first responder shall provide sufficient evidence of applicable employment status, service connected disability, property ownership and primary residence status with the written request for deferral application.
- (1) For purposes of this Section, "veteran or service member of the armed forces" shall include any veteran or service member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or the reserve component of any such forces. For purposes of this Section, "public safety first responder" shall include any law enforcement officer or fire safety personnel of any city, county, local district, or other governmental agency.
  - (2) In order to qualify for this expedited process, the veteran, service member, or first responder applying for the deferral agreement must have sustained a service connected permanent disability. The home or residence must be in the veteran, service member or first responder's name and must be his or her "primary residence" defined as the principal place where one actually lives.
  - (3) Any veteran or service member of the armed forces or any public safety first responder that sustains a service connected disability that requires adjustment to his or her primary residence as a result of the service connected disability, shall be eligible for an expedited review and approval process for deferral agreement applications allowing for final approval of such application by the City Manager (rather than having to go to the City Council for final approval). All other application requirements and procedures set forth in this Section shall apply. The Public Works Director shall still conduct the applicable review of the application and provide a recommendation to the City Manager in accordance with the provisions of Subsection (b). The City Manager shall thereafter conduct the final review and approval of the application based on the factors set forth in Subsection (f) and shall be authorized to enter into the deferral agreement on behalf of the City.
  - (4) Any veteran, service member, or first responder adversely affected by a final decision of the City Manager under this Subsection (g) regarding the approval or denial of a deferral agreement application may appeal such decision to the City Council by filing a written appeal to the City Recorder within 30 days from the date of the City Manager's decision. The appeal to the City Council shall be expedited to the extent feasible.

**WHEN RECORDED, RETURN TO:**

Centerville City Recorder  
 250 North Main Street  
 Centerville, Utah 84014

Affects Parcel No.: 02-100-0019

**PUBLIC IMPROVEMENTS DEFERRAL AGREEMENT  
 OBLIGATION FOR FUTURE CONSTRUCTION OF IMPROVEMENTS**

**(150 North 600 East)**

**THIS AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between **CENTERVILLE CITY**, a municipal corporation, whose address is 250 North Main Street, Centerville, Utah, 84014 (hereinafter referred to as "City"), and **GREGORY R. BUTTARS AND AUDREY V. BUTTARS**, whose address is 150 North 600 East, Centerville, Utah, 84014 (hereinafter referred to as "Owner").

**RECITALS:**

**WHEREAS**, Owner has applied for land use approvals to further develop property located at approximately 150 North 600 East, Centerville, Utah, which property is more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"); and

**WHEREAS**, City Ordinances generally require the installation of public improvements along streets fronting property to be subdivided or further developed; and

**WHEREAS**, the City is willing to grant Owner a deferral of the obligation to install public improvements and landscaping along a portion of the Property's street frontage on 600 East in exchange for Owner's promise to pay for and install such public improvements and landscaping in the future as more particularly provided in and subject to the terms and conditions set forth in this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**1. Installation of Improvements.** The City hereby grants Owner a temporary deferral of the obligation to install public improvements required for development of the Property to include the deferral of the installation of approximately 80 lineal feet of sidewalk, landscaping and other necessary improvements along the western portion of the Property's street frontage along 600 East, Centerville City, Davis County, Utah ("Public Improvements"). Owner's obligation to install the Public Improvements shall include any and all work within the public

right-of-way as well as on Owner's Property necessary to install the Public Improvements, such as grading, retaining wall, landscaping, tree removal, irrigation or utility line removal or relocation, etc. Such deferral is granted until such time that the City provides written request and demand to the Owner to install the Public Improvements or to pay the City the actual cost of installing the Public Improvements, as determined by the City. Owner, or Owner's successor in interest as owner(s) of the Property, hereby agrees to immediately install the Public Improvements required for the Property at its sole cost and expense upon written request and demand by the City or to pay the City the amount due and owing for the City to install or have installed the Public Improvements, as directed by the City. If installed by the Owner, Owner, or its authorized agent, representative or contractor, shall install the Public Improvements in strict accordance with the approved building permit and site plan for the Property and all applicable City standards, specifications, ordinances, rules, and regulations regarding sidewalks, landscaping and public improvements, including compliance with all permit requirements for work within the public right-of-way, which are in effect at the time the Public Improvements are installed. The Public Improvements shall also be installed in accordance with the City standard street cross section in effect at the time the Public Improvements are installed. It is expressly understood and agreed that the City is granting this temporary extension of time to install the Public Improvements to Owner conditioned upon and subject to the promised future performance by Owner to install the Public Improvements or to pay the City to install the Public Improvements as more particularly provided in this Agreement. It is further expressly acknowledged by Owner that in order to install the Public Improvements described herein, certain improvements and work must be done by Owner on Owner's Property to accommodate the installation of the Public Improvements. Owner further agrees to install as a condition of building permit approval the drive approach and that portion of the sidewalk for the drive approach and that such improvements are not deferred by the terms of this Agreement.

**2. Failure to Install.** If, for any reason, Owner does not install and complete the Public Improvements or pay the City the amount due and owing for the City to install the Public Improvements within 90 days after having been requested in writing by City to do so, the City is hereby authorized to install and complete the Public Improvements at the sole expense of the Owner at that time and to charge the Owner and/or the Property with the cost of said installation and completion. The costs incurred by the City to install and complete the Public Improvements shall be an obligation of the Owner and shall be promptly paid by the Owner. Upon the failure of Owner to do so, these costs shall become a charge on the Property described herein and shall be a continuing lien upon the Property, together with interest thereon at ten percent (10%) per annum, and all costs and reasonable attorney's fees incurred by the City. The City may commence an action against the Owner to collect the foregoing charges and to foreclose the lien against the Property. Upon foreclosure of the lien provided herein by the City, should any deficiency remain, Owner shall remain liable for payment of the deficiency.

**3. Fee Title Owner.** Owner hereby represents and warrants that Owner owns fee title interest to the Property and further hereby confess judgment for Owner, Owner's heirs, representatives, successors in interest, future owners, and assigns for the total of any and all amounts expended by City for the installation and completion of the Public Improvements and any expenses related thereto.

**4. Covenants to Run with the Land.** The foregoing covenants in each and every particular are and shall be construed as real covenants and shall run with the land, and the same are hereby made binding upon the heirs, representative, devisees, assigns, future owners and successors in interest of the parties hereto.

**5. Default.** The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorney's fees which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

**6. Amendments.** Any amendment, modification, termination, or rescission (other than by operation of law) which affects this Agreement shall be made in writing, signed by the parties, and attached hereto.

**7. Successors.** This Agreement shall be binding upon and inure to the benefit of the legal representatives, subsequent owners, successors and assigns of the parties hereto.

**8. Notices.** Any notice required or desired to be given hereunder shall be deemed sufficient if sent by certified mail, postage prepaid, addressed to the respective parties at the addresses shown in the preamble.

**9. Severability.** If any portion of this Agreement for any reason declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

**10. Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

**11. Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

**12. Captions.** The captions preceding the paragraphs of this Agreement are for convenience only, and shall not affect the interpretation of any provision herein.

**13. Integration.** This Agreement, together with its exhibits, contains the entire and integrated agreement of the parties regarding the deferral and installation of the Public Improvements as of the date hereof, and no prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of any force or effect.

**14. Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit. An unattached exhibit is available from the records of the parties.

**15. Recording.** This Agreement shall be recorded with the Davis County Recorder's office for all parcels or lots within the Property as notice of the required Public Improvements.

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first hereinabove written.

**"CENTERVILLE CITY"**

ATTEST:

\_\_\_\_\_  
Mayor Paul A. Cutler

\_\_\_\_\_  
Marsha L. Morrow, City Recorder

**"OWNER"**

By: \_\_\_\_\_  
Gregory R. Buttars

By: \_\_\_\_\_  
Audrey V. Buttars

STATE OF UTAH )  
 :ss.  
COUNTY OF DAVIS )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared before me, **PAUL A. CUTLER**, who being duly sworn, did say that he is the Mayor of Centerville City, a municipal corporation, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Paul A. Cutler acknowledged to me that said municipal corporation executed the same.

\_\_\_\_\_  
Notary Public

My Commission Expires

Residing at:

\_\_\_\_\_

\_\_\_\_\_

STATE OF UTAH )  
 :ss.  
COUNTY OF DAVIS )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared before me Gregory R. Buttars and Audrey V. Buttars, who being duly sworn, did say that they are the owners of the subject property and that the foregoing instrument was duly signed by them in their individual capacities.

\_\_\_\_\_  
Notary Public

My Commission Expires

Residing at:

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT "A"****Legal Description of Property**

All of Parcel No. 02-100-0019

BEG ON E LINE OF A STR 806.5 FT E & 161.50 FT N OF SW COR BLK DA, PLAT  
BIG CREEK; CENTERVILLE TS SURVEY; N 80 FT, E 185 FT, S 80 FT, TH W 185 FT  
TO BEG. CONT. 0.34 ACRES.

WHEN RECORDED RETURN TO:  
Springville City Corporation  
110 South Main  
Springville, UT 84663



ENT 44723:2012 PG 1 of 3  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2012 May 30 2:18 pm FEE 0.00 BY SW  
RECORDED FOR SPRINGVILLE CITY CORPORATIO

### WAIVER OF PROTEST AGREEMENT

This Waiver of Protest Agreement is entered into as of May 29, 2012<sup>v</sup>  
by and between Raymond V. Morris representing R. V. Morris Properties, L.C., (hereinafter referred to as "Developer", as developer of certain real property located in Springville, Utah and Springville City, a municipality of the State of Utah (hereinafter referred to as "Springville").

#### RECITALS:

- A. Developer is the owner of real property located in Springville, Utah , as shown on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property").
- B. Springville City Code requires certain improvements be made in any development. It has been the policy of Springville City to not require certain improvements at the time of development when surrounding property is not likewise developed.
- C. Springville is willing to allow Developer to develop without all necessary improvements if Developer is willing to waive protest rights to any Special Improvement District ("SID") which may be created by Springville in the future pursuant to Utah Code Annotated §17B-1-101 *et seq.*.

THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

- 1. Springville will issue the necessary permits and grant the necessary approvals to develop the Property upon the Developer meeting all requirements of the Springville City Code for development of the Property.
- 2. Springville will waive the requirement to complete certain improvements. These improvements include: **street improvements, curb, gutter, park strip and park strip landscaping across the site's frontage along 900 North street.**
- 3. In return for the waiver, Developer agrees to waive any right of protest Developer may have if Springville decides to place this area into an SID for installation of all the above described improvements.
- 4. A copy of this Agreement may be recorded with the Utah County Recorder and shall constitute a covenant running with the land. Said waiver or consent shall not be withdrawn by the Developer or any successor in interest of the Developer.
- 5. All proper authority for the execution of this Agreement has been received by Developer and Springville from any corporate or municipal board or council.

6. Any notice which is required or which may be given pursuant to this Agreement is sufficient if in writing and sent to a party by certified or registered mail, postage prepaid, addressed as shown below:

|                               |                         |
|-------------------------------|-------------------------|
| Developer:                    | Springville:            |
| Raymond V. Morris             | Mayor Clyde             |
| R. V. Morris Properties, L.C. | Springville City        |
| 275 W. 900 North              | 110 South Main Street   |
| Springville, Utah 84663       | Springville, Utah 84663 |

A party may change the address for notice to it by giving a notice pursuant to this paragraph. Notwithstanding anything herein to the contrary, notice to Developer of any amount due under this Agreement shall also be sufficient if given by facsimile transmission, telegraph, telephone, or personally, orally, or in writing, to an address, location, or person reasonably likely to provide actual notice to Developer.

7. Nothing in the Agreement shall limit the future exercise of the police power by Springville in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement.

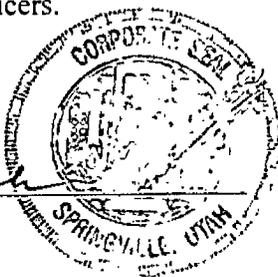
8. This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

9. If this Agreement or any of the exhibits hereto are breached, the party at fault agrees to pay a reasonable attorney's fee and all costs of enforcement of the non-breaching party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

ATTEST:

*Vivian Fisher*  
\_\_\_\_\_  
City Recorder



SPRINGVILLE CITY

BY: *Walter W. Lee*

ITS: *Mayor*

DEVELOPER

BY: *Raymond V. Morris*

ITS: *President*

State of Utah, County of Utah  
Subscribed and sworn to before me this  
21 day of May, 2012.

*Jay Knight*  
\_\_\_\_\_  
Notary Public

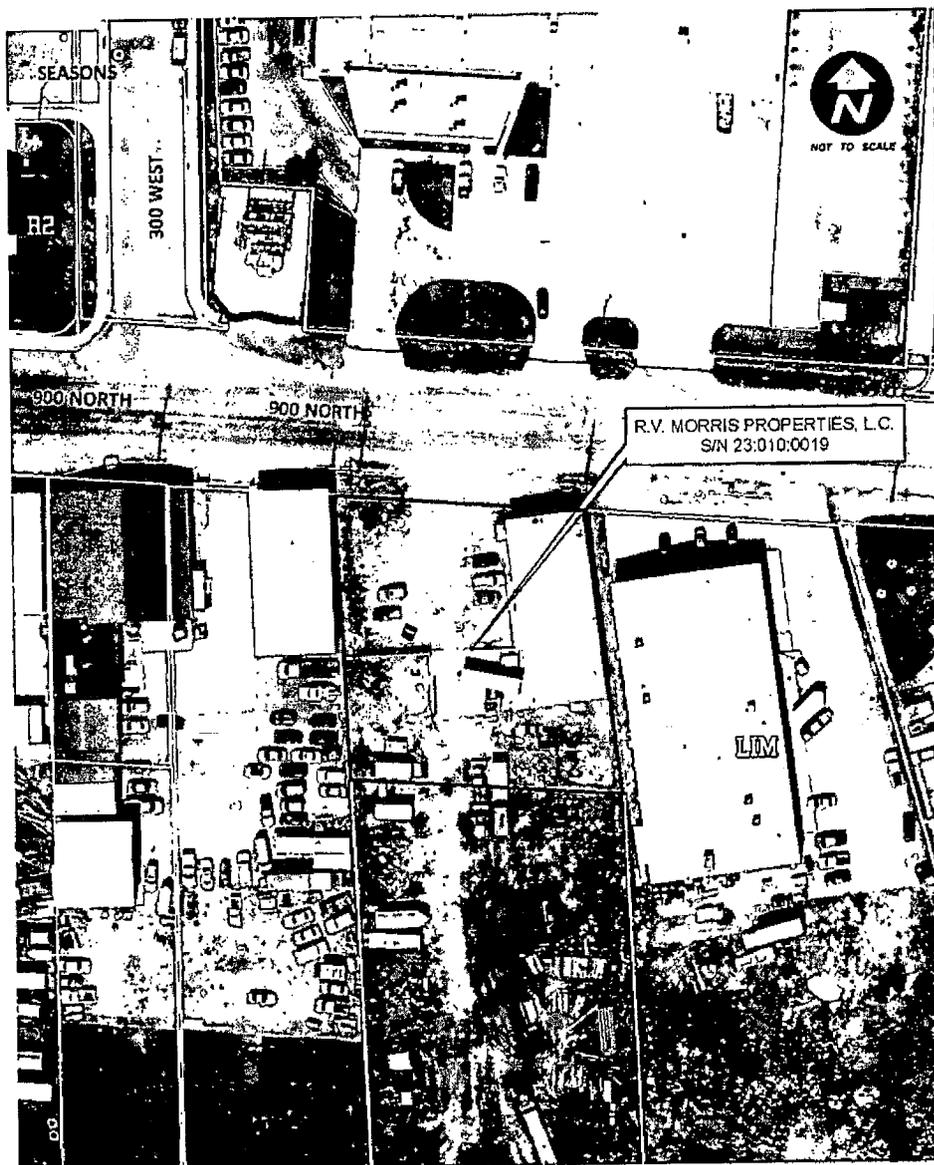


EXHIBIT A

275 W 900 N SPRINGVILLE, UT 84663

Serial Number: 23:010:0019

**Legal Description:** COM E 411.92 FT & S 623.62 FT FR W 1/4 COR SEC 28, T7S, R3E, SLM; S 85 56'15"E 135 FT; S 6 59'41"E 151.56 FT; N 86 10'55"W 146.91 FT; N 2 29'21"W 150.35 FT TO BEG. .48 AC. SUBJ TO R/W.



**8. Discussion Item — Highlands at Bald Mountain; encroachments onto City property**

*(20 minutes)*

The City Council will receive information and provide direction to staff regarding several properties that have installed landscaping and other improvements on city owned right-of-way reserved for the future 1200 E. roadway.

See attached materials from the Planning Department. Direction will be given, but no motion necessary for this item.

## **Discussion Item: Encroachment on City land at Highlands at Bald Mountain**

### OVERVIEW

With the development of the Highlands at Bald Mountain subdivision, the City purchased right of way from the developer for the future 1200 East connector roadway. As homes have been constructed in the subdivision, several property owners have constructed improvements in this City-owned right of way.

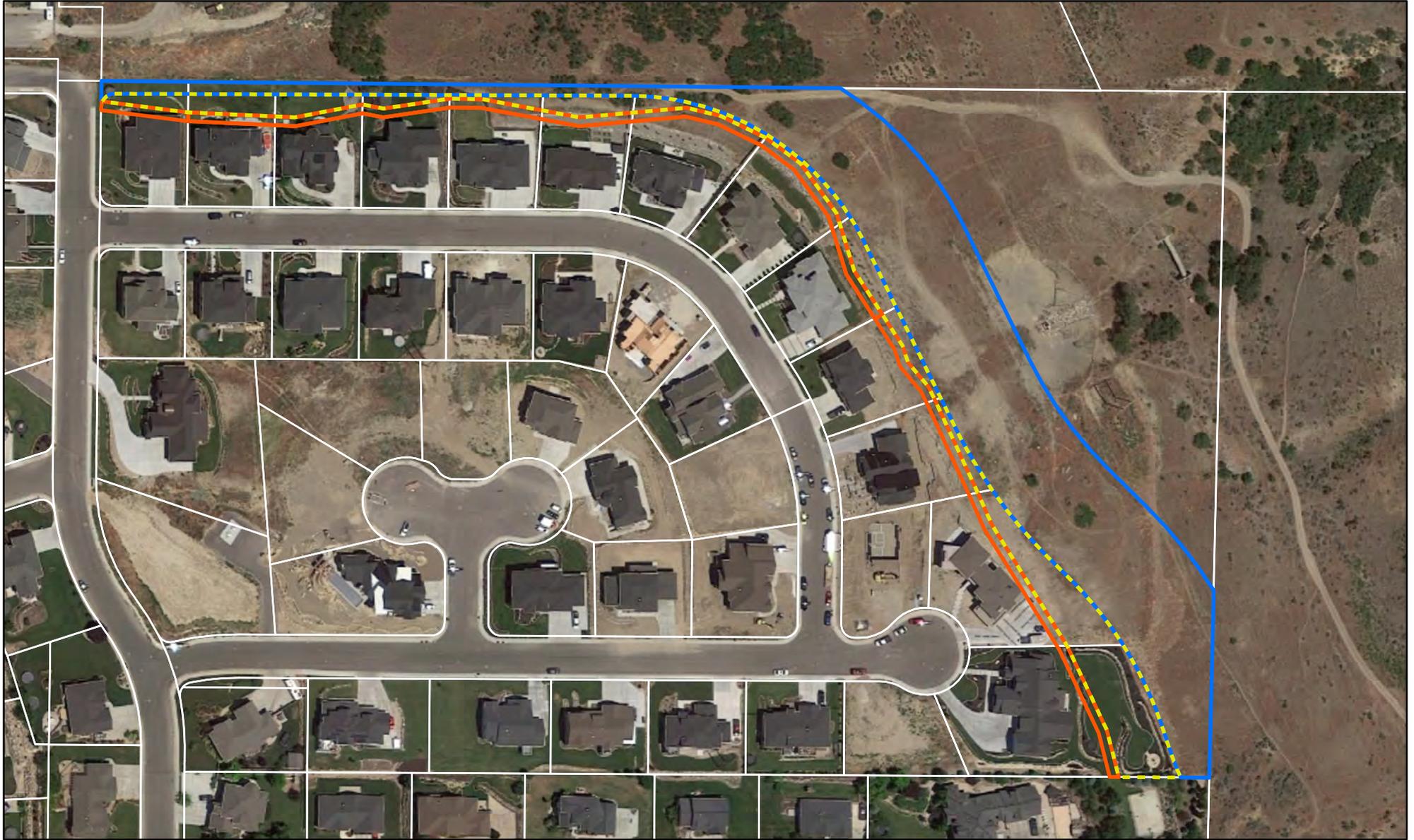
Beyond the survey stakes placed to demarcate subdivision lots from the City right of way, no physical manifestation of the property lines was created. This may have led to a misunderstanding of where an owner's property line actually stopped. However, the most recent encroachment is a concrete pad for a basketball court. Unfortunately, prior to construction, the owner was notified in writing that he did not have permission to encroach on City land.

Staff is seeking Council direction on how to deal with the encroachments onto City property.

Attachments:

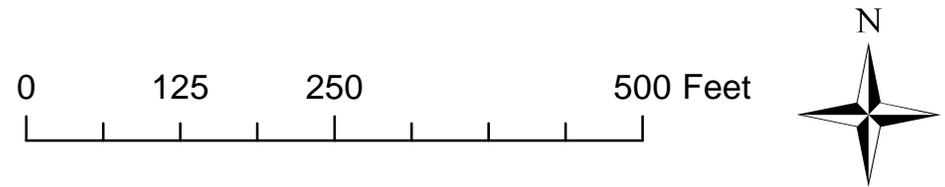
1. Highlands at Bald Mountain Subdivision showing City purchased ROW
2. Encroachments onto City Right of Way
3. Basketball pad encroachment
4. City Street Master Plan

# Highlands at Bald Mountain: Existing Easements

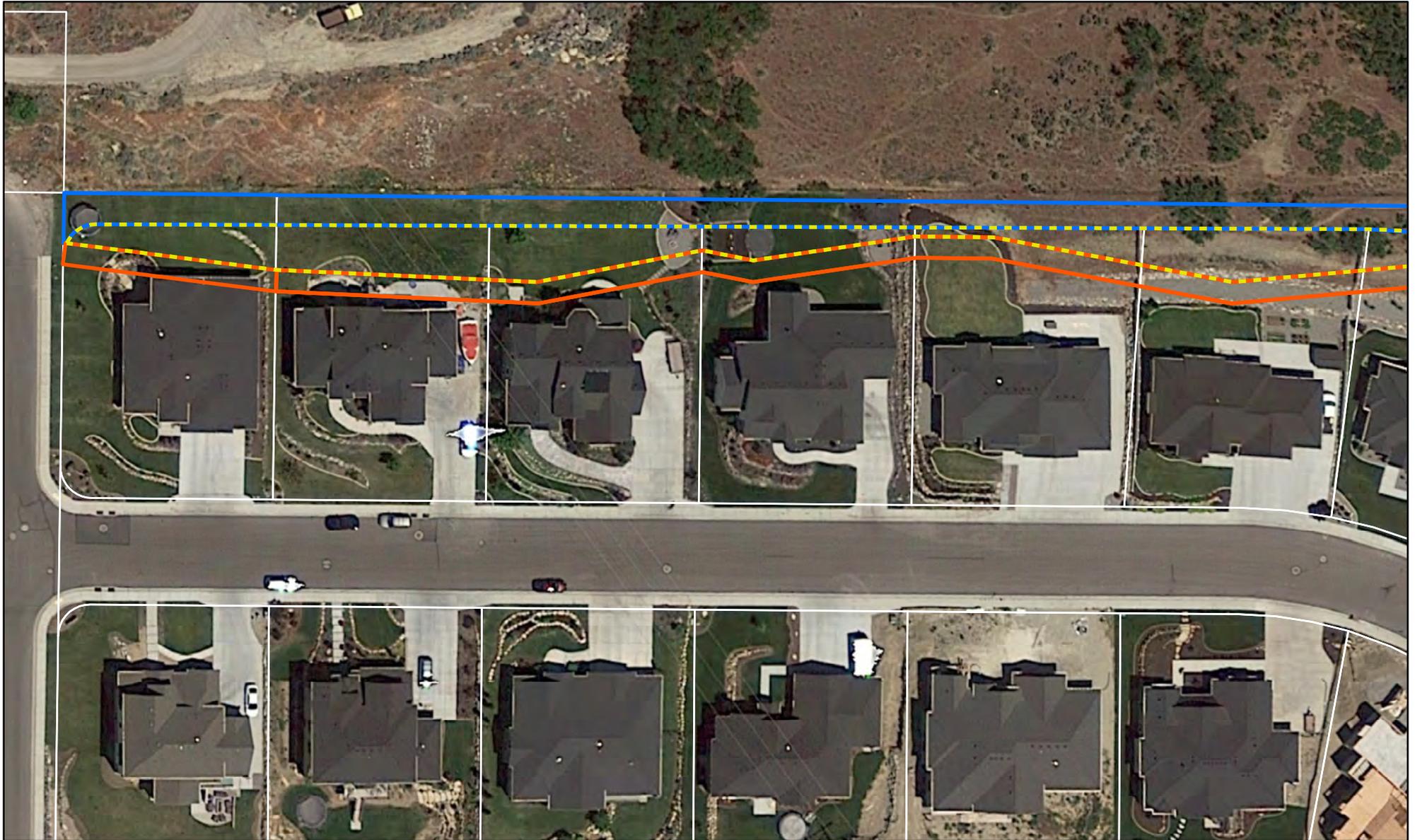


**Legend**

- Slope Easement
- Temporary Construction Easement
- Lindon City Property
- Parcel Boundaries



# Highlands at Bald Mountain: Property Encroachments



**Legend**

-  Slope Easement
-  Temporary Construction Easement
-  Lindon City Property
-  Parcel Boundaries

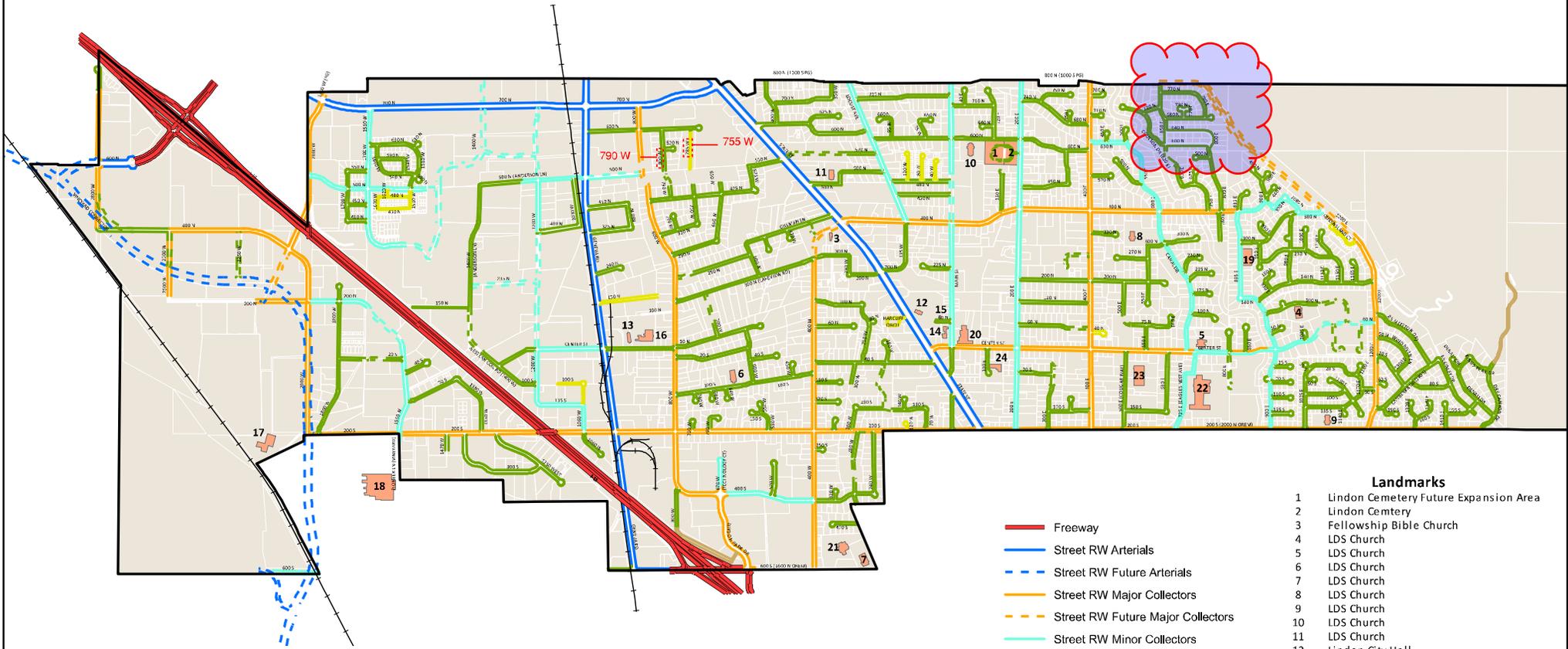
0 50 100 200 Feet





# Lindon City Street Master Plan

## March 2018



- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><span style="color: red;">—</span> Freeway</li> <li><span style="color: blue;">—</span> Street RW Arterials</li> <li><span style="color: blue;">- - -</span> Street RW Future Arterials</li> <li><span style="color: orange;">—</span> Street RW Major Collectors</li> <li><span style="color: orange;">- - -</span> Street RW Future Major Collectors</li> <li><span style="color: cyan;">—</span> Street RW Minor Collectors</li> <li><span style="color: cyan;">- - -</span> Street RW Future Minor Collectors</li> <li><span style="color: green;">—</span> Street RW Local</li> <li><span style="color: green;">- - -</span> Street RW Future Local</li> <li><span style="color: yellow;">—</span> Street RW Private</li> <li><span style="color: brown;">—</span> Street RW Public Other</li> <li><span style="color: orange;">■</span> Landmarks</li> </ul> | <p style="text-align: center;"><b>Landmarks</b></p> <ul style="list-style-type: none"> <li>1 Lindon Cemetery Future Expansion Area</li> <li>2 Lindon Cemetery</li> <li>3 Fellowship Bible Church</li> <li>4 LDS Church</li> <li>5 LDS Church</li> <li>6 LDS Church</li> <li>7 LDS Church</li> <li>8 LDS Church</li> <li>9 LDS Church</li> <li>10 LDS Church</li> <li>11 LDS Church</li> <li>12 Lindon City Hall</li> <li>13 Lindon City Public Works</li> <li>14 Lindon Community Center</li> <li>15 Lindon Firestation #1</li> <li>16 LDS Church Cannery</li> <li>17 North Point Waste Transfer Station</li> <li>18 Power Plant</li> <li>19 Water Tanks</li> <li>20 Lindon Elementary School</li> <li>21 Maeser Academy</li> <li>22 Oak Canyon Jr. High School</li> <li>23 Rocky Mountain Elementary School</li> <li>24 Timpanogos Academy</li> </ul> |
|---|--|



OTHER LINDON COMPANIES

**9. Public Hearing — Ordinance Change; LCC 12.04; 12.08 - Use of Streets & Sidewalks (Ord. 2018-13-O)** *(10 minutes)*

The City Council will review and consider Ordinance #2018-13-O updating code requirements regarding snow removal from sidewalks and maintenance of landscaping adjacent to city streets.

See attached Ordinance 2018-13-O. This is a city initiated item to clean up some code sections and codify current practices and policy. It has been common practice/policy for many decades to require property owners to clear snow and other debris from sidewalks and for property owners to maintain landscaping/vegetation adjacent to sidewalks and public rights-of-way. However, upon review of this issue during last winter there appeared to be no ordinance to this effect. These changes update Lindon's ordinances so that these requirements can be referred to in Lindon City Code and enforced if necessary.

**Sample Motion:** I move to (approve, deny, continue) Ordinance 2018-13-O.

ORDINANCE NO. 2018-13-O

AN ORDINANCE OF THE CITY COUNCIL OF LINDON CITY, UTAH COUNTY, UTAH, AMENDING CHAPTER 12.04 and CHAPTER 12.08 OF THE LINDON CITY CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the proposed amendments will allow for clarification regarding maintenance of sidewalks, trails and other pedestrian ways within the City; and

WHEREAS, the proposed amendments will improve safety of pedestrians and other non-motorized users by keeping obstructions cleared and removed from pedestrian ways; and

WHEREAS, the proposed amendments will continue to promote community aesthetics and beautify the city; and

WHEREAS, a public hearing was held on July 17, 2018 to receive public input and comment regarding the proposed amendment, wherein the City Council found that the changes are in the best interest of the public and that the changes should be made.

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

SECTION I: Chapters 12.04 and 12.08 of the Lindon City Code are hereby amended to read as follows:

**Chapter 12.04**  
**USE OF SIDEWALKS, TRAILS, AND PEDESTRIAN WAYS**

Sections:

- 12.04.010**     **Obstructions.**
- 12.04.020**     **Discharges of water.**
- 12.04.030**     **Receiving goods.**
- 12.04.040**     **Driving or riding upon.**
- 12.04.050**     **Sweeping Maintenance and snow removal in front of businessesproperty.**

**12.04.010**     **Obstructions.**

It is unlawful for any person ~~owning, occupying or having control of any premises,~~ to place, or permit to be placed, upon ~~or across the~~ a public sidewalk, trail, or other public pedestrian way of the half of the street next to such premises:

1. Any broken ware, glass, filth, rubbish, refuse matters, snow, ice, water, mud, garbage, ashes, ~~tin cans~~ dirt or other like substances;
2. Any vehicles, lumber, wood, boxes, fencing, building materials, landscaping materials, tree limbs, shrubbery or other vegetation, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street or sidewalk or any part thereof, or the free use and enjoyment thereof, or the free passage over and upon the same, or any part thereof, without the permission of the city ~~council.~~ (Prior code §15-1)

### **12.04.020 Discharges of water.**

It is unlawful for any person owning, occupying or having control of any premises to suffer or permit irrigation or well water or water from the roof or eaves of any house, building or other structure, or from any other source under the control of such person, to be discharged and spread upon the surface of any sidewalk, trail, pedestrian way, or street. (Prior code §15-2)

### **12.04.030 Receiving goods.**

It is unlawful for any person to place or keep, or suffer to be placed or kept upon any sidewalk, trail, or pedestrian way, any goods, wares or merchandise which he may be receiving or delivering, without leaving a ~~40~~ six foot passageway clear upon such sidewalk; and it is unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same or remain on such sidewalk for a longer period than one hour. (Prior code §15-3)

### **12.04.040 Driving or riding upon.**

It is unlawful for any person to drive or operate a motorized vehicle (excluding electric-assist bicycles, skateboards, and scooters) ~~a self-propelled vehicle or team, or lead, drive or ride any animal~~ upon any sidewalk, trail, or pedestrian way, except across a sidewalk at established crossings. (Prior code §15-4)

### **12.04.050 Sweeping Maintenance and snow removal in front of businesses property.**

It is unlawful for the owners or occupants of residences or places of business within this city to fail to cause the sidewalk, trail, or pedestrian way abutting thereon to be cleared of snow and ice, swept or cleaned each morning before the hour of nine a.m.; Snow, ice, leaves, grass clippings and other similar items removed from sidewalks, trails, pedestrian ways, driveways, or parking lots shall be removed and/or placed upon the property adjacent to the surfaces where the snow, ice, leaves, or other similar items were removed and shall not be placed on the street, sidewalk, trail, pedestrian way, or public right-of-way. Landscaping or other vegetation, including vegetation within the public right-of-way, abutting or adjacent to streets, street shoulders, sidewalks, trails, or pedestrian ways shall be maintained by the abutting or adjacent owners or occupants of residences or places of business. (Prior code §15-5)

## **Chapter 12.08**

### **GENERAL USE OF STREETS AND RIGHT-OF-WAYS**

Sections:

- 12.08.010**     **Depositing material prohibited.**
- 12.08.020**     **Streamers, banners and signs.**

### **12.08.010 Depositing material prohibited.**

1. It is unlawful for any person intentionally or carelessly to throw, cast, put into, drop or leave in any street, street shoulder, gutter, sidewalk, trail, pedestrian way, public right-of-way or public place any snow, ice, stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings, construction materials, or rubbish or similar items of any kind or any other substance which shall render such ~~highway~~ street, sidewalk, trail, or right-of-way unsafe or unsightly or shall interfere with travel thereon, or to direct or instruct another person to do the same. The liability for the removal of such material shall rest with:

- a. the owner of the material, if the material is placed at the owner's direction or through the actions of the owner, or if the material is deposited adjacent to the owner's property; or
- b. the person or persons who placed the material, whether intentional or not, in violation of this section; or
- c. both the owner of the material and the person or persons who placed the material in violation of this section.

2. Any person cited for violating this section shall remove the material within forty eight hours of the citation or be guilty of a Class B misdemeanor. Each day a violation of this Chapter continues after the notice, shall constitute a separate offense. The city may proscribe a shorter time for removal in cases where the city determines that the material poses an extreme hazard to the public. If the person or persons cited under this section fail to remove the material within the required time, the city may remove the material to another location or dispose of the material at the expense of the person or persons cited. Persons cited in violation of this section may also be liable for any cost incurred by the city for the erection of barricades or warning signs when the city deems it necessary to protect the safety of the public. (Ord. 97-1, amended, 2000; Prior code §15-9)

**12.08.020 Streamers, banners and signs.**

It is unlawful for any person to construct, erect or maintain any streamers, banners, or signs, or suspend the same over any public street, sidewalk, trail, pedestrian way or ~~alley~~ public right-of-way of this city without obtaining a permit so to do from the city council, applications for which shall specify the width and length of such streamers, banners or signs, the height the same shall be suspended from the pavements, and the length of time the same is desired to remain. (Prior code §15-12)

**SECTION II:** 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 III:** 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 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

**10. Public Hearing — Ordinance Change; LCC 5.08 - Alcohol Sales & Licensing (Ord. 2018-11-O)**

*(10 minutes)*

The City Council will review and consider Ordinance #2018-11-O bringing the city's alcohol sales and licensing ordinance up to date with current Utah State codes.

See attached Ordinance 2018-11-O. This is a city initiated item to clean up some code sections and codify current State alcohol laws into Lindon City Code. The City Attorney has drafted and prepared the attached ordinance changes.

\*A version showing the strike-out changes and underline additions is included in the official Ordinance. A 'clean version' that includes all the proposed changes and is easier to read without the strike-outs/underlines is also provided after the ordinance.

**Sample Motion:** I move to (approve, deny, continue) Ordinance 2018-11-O.

**ORDINANCE NO. 2018-11-O**

**ALCOHOL SALES AND LICENSING.** AN ORDINANCE AMENDING CHAPTER 5.08 OF THE LINDON CITY CODE REGULATING THE LICENSING AND SALE OF ALCOHOL 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 Utah State Legislature has amended the Utah Alcohol Beverage Control Act, requiring Lindon City to review and amend its current ordinances regulating the sale of alcohol so as to comply with the requirements of the state code.

**WHEREAS**, it is in the best interest and general welfare of residents of Lindon for Lindon City to establish clear requirements and procedures for the City to follow in issuing consents to state issued alcohol licenses, granting business licenses to alcohol related businesses, and in imposing conditions for the issuance of City licenses for the sale of beer for off-premises consumption; and to provide for the imposition of penalties and the revocation of licenses if such requirement and conditions are not met.; and

**WHEREAS**, the City has met the notice requirements for the discussion and adoption of the proposed ordinance.

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

**SECTION I: AMENDMENT OF CHAPTER 5.08.** Chapter 5.08 of the Lindon City Code shall be amended and adopted to read as follows:

**Chapter 5.08 ALCOHOL SALES AND LICENSING**

Sections:

- 5.08.010 Definitions.
- 5.08.020 ~~License Required for Retail Sale of Light~~ Business License for Alcohol-Related Businesses.
- 5.08.030 ~~License Required for wholesale sale of beer~~ Off-Premise Beer Retailer License.
- 5.08.040 ~~License Classification and privileges~~ Written Consent to Applications for State Issued Retail Alcohol License.
- 5.08.050 ~~License Application.~~ Employment of Minors by a Bar Establishment Licensees Prohibited.
- 5.08.060 ~~Licensee qualifications.~~
- 5.08.070 ~~License Bond.~~
- 5.08.080 ~~License Council authority to refuse.~~
- 5.08.090 ~~License Permit required.~~
- 5.08.100 ~~060~~ License--Transfer.
- 5.08.110 ~~070~~ License--Application fee--Expiration date.
- 5.08.120 ~~General restrictions.~~
- 5.08.130 ~~Consumption of intoxicating beverages on premises.~~

- ~~5.08.140 License Revocation.~~  
~~5.08.150080 Inspection of licensed premises.~~  
~~5.08.160090 Violation--Penalty.~~  
~~5.08.170 Required Beer Handler's Permit.~~  
~~5.08.180 Licensee Duty to Inform.~~  
~~5.08.190 Compliance checks.~~  
~~5.08.200 Application process for a Beer Handler's Permit.~~  
~~5.08.210 Qualifications to obtain a Beer Handler's Permit.~~  
~~5.08.220 Penalties for violations by a Permit holder.~~  
~~5.08.230 Licensee penalties.~~  
~~5.08.240 Right to a Hearing.~~

#### 5.08.010 Definitions.

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

1. "Alcoholic Beverage" means Beer or Liquor.
2. "Alcoholic Product" means a product that:
  - a. Contains at least 0.5% of alcohol by volume; and
  - b. Is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than 0.5% of alcohol by volume.
  - c. "Alcoholic Product" includes an alcoholic beverage.
  - d. "Alcoholic Product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
    - i. An extract, except an extract containing alcohol obtained by distillation when it is used as flavoring in the manufacturing of an alcoholic product;
    - ii. Vinegar;
    - iii. Cider;
    - iv. Essence;
    - v. Tincture;
    - vi. Food preparation; or
    - vii. An over-the-counter medicine.
3. "Alcohol-Related Business" means any enterprise, business, or operation that allows a person to hold, store, possess, or consume an Alcoholic Product on the premises of the business such as a restaurant, association, bar or any similar business which is required to obtain and maintain a State Issued License as defined in this Chapter and any Off-Premise Beer Retailer as defined by this Chapter.
4. "Alcohol Training and Education Seminar" means a seminar required by Title 32B, Chapter 5, Part 4, Alcohol Training and Education Act, of the Utah State Code and as described in Section 62A-15-401.
5. "Bar Establishment License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License of the Utah Code.
  - a. "Bar Establishment License" includes licenses designated by the Alcoholic Beverage Control Commission as:
    - i. A dining club license;
    - ii. An equity license;
    - iii. A fraternal license; or
    - iv. A bar license.
6. "Beer" means any beverage containing not less than 0.5% (one-half of one percent), but not more than 4% (four percent) of alcohol by volume, or 3.2% (three and two-tenths percent) weight and is obtained by the alcoholic fermentation of an infusion or decoction of any malted grain or similar products. "Heavy beer" means beer containing more than 3.2 percent of alcohol by weight. "Light beer" means beer containing not more than 3.2 percent of alcohol by weight
  - a. Beer may or may not contain hops or other vegetable products.
  - b. Beer includes beverages referred to as beer, ale, stout, lager, and porter.
  - c. Beer includes malt or malted beverages but does not include a Flavored Malt Beverage.
  - d. Beer does not include Heavy Beer.

7. "Beer-Only Restaurant License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License of the Utah Code.
8. "Beer Retailer" means a business that:
- a. Is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
    - i. Is licensed as an Off-Premise Beer Retailer by Lindon City; or
    - ii. Is licensed by the Utah Department of Alcoholic Beverage Control as an On-Premise Beer Retailer.
9. "Beer Wholesaling License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 13, Beer Wholesaling License Act of the Utah Code.
10. "Brewery Manufacturing License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 11, Part 5, Brewery Manufacturing License of the Utah Code.
11. "Church" means a building set apart for worship in which religious services are held and with which clergy is associated, and that is tax exempt under the laws of the State of Utah.
12. "Community Location" means a:
- a. Public or private school;
    - i. For purposes of this ordinance, school means a building used primarily for the general education of minors and does not include an Educational Facility as defined in this Chapter.
  - b. A church;
  - c. A public library;
  - d. A public playground; and
  - e. A public park.
13. "Convention Center" means a facility that is in total at least 30,000 square feet and as may be further defined by rules adopted by the Utah Department of Alcoholic Beverage Control.
14. "Distillery Manufacturing License" means a license issued by the Utah Department of Alcoholic Beverage Control in accordance with Title 32B of the Utah Code, Chapter 11, Part 4, Distillery Manufacturing License.
15. "Education Facility" includes a nursery school, an infant day care center, and a trade or technical school, but does not include a public or private school as defined by this Chapter.
16. "Flavored Malt Beverage" means a beverage that contains at least 0.5% alcohol by volume and as is further defined in Section 32B-1-102 of the Utah Code.
- a. For purposes of this ordinance, Flavored Malt Beverage is considered a liquor.
17. "Full-Service Restaurant License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License of the Utah Code.
18. "Heavy Beer" means Beer, as defined herein, containing more than 4% alcohol by volume.
- a. For purposes of this ordinance, Heavy Beer is considered a liquor.
19. "Hotel License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act of the Utah Code.
20. "Identification Card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act of the Utah Code.
21. "Intoxicated" means that a person is significantly impaired as to the person's mental or physical functions as a result of the use of an Alcoholic Product, a controlled substance, a substance having the property of releasing toxic vapors; and exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an Alcoholic Product, the above-mentioned substances, or a combination of the same.
22. "Limited-Service Restaurant License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License of the Utah Code.
23. "Lindon City Off-Premise Beer Retailer License" means a license issued by Lindon City in accordance with the Provision of this Chapter.
24. "Liquor" and "intoxicating liquor" means and include a liquid that:
- a. Is Alcohol, Alcoholic, spirituous, vinous, fermented, malt, or other liquid or combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks or drinkable liquids containing more than 0.5% (one-half percent) of alcohol by weight/volume; and all mixtures, compounds or preparations, whether liquid or not, which contain more than 0.5% of alcohol by weight/volume, and which are capable of human consumption-except the term "Liquor" shall not include light beer.

- b. “Liquor” includes:
    - i. Flavored Malt Beverages;
    - ii. Heavy Beer; and
    - iii. Wine.
  - c. “Liquor” does not include Beer.
25. “Liquor Warehousing License” means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 12, Liquor Warehousing License Act of the Utah Code.
26. “Manufacture” means to distil, brew, rectify, mix, compound, process, ferment, or otherwise make an Alcoholic Product for personal use or for sale or distribution to others.  
“Minor” means an individual under the age of 21 years.
27. “Off-Premise Beer Retailer” means a beer retailer who is licensed by Lindon City, in accordance with this Chapter and by the Utah Department of Alcoholic Beverage Control in accordance with Title 32B, Chapter 7, Off-Premise Beer Retailer Act of the Utah Code, and is who engaged in the retail sale of Beer to a patron for consumption off of the beer retailer's premises.
  - a. “Off-Premise Beer Retailer” does not include an On-Premise Beer Retailer.
28. “On-Premise Banquet License” means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B of the Utah Code, Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
29. “On-Premise Beer Retailer” means a Beer retailer who is authorized to sell, offer for sale, or furnish Beer under a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License of the Utah Code, and who is engaged in the sale of Beer for consumption on the licensed premises.
30. “Proof of Age” means an Identification Card.
  - a. “Proof of Age” includes the following provided they include the date of birth and have a picture affixed, including:
    - i. A valid driver license issued by the State of Utah;
    - ii. A valid driver license from any other state;
    - iii. A military identification; or
    - iv. A valid passport.
  - b. Proof of Age does not include a driving privilege card issued pursuant to Section 53-3-207 of the Utah Code.
31. “Reception Center” means a business that operates facilities that are at least 5,000 square feet; and has as its primary purpose the leasing of the facilities to a third party for the third party's event.
32. “Reception Center License” means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B of the Utah Code, Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
33. “Resort License” means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B of the Utah Code, Chapter 5, Retail License Act, and Chapter 8, Resort License Act.
34. “Responsible Alcohol Service Plan” means a written set of policies and procedures that outlines measures to prevent employees from over-serving alcoholic beverages to customers, serving alcoholic beverages to customers who are Intoxicated, and serving alcoholic beverages to Minors as required by the Utah Alcoholic Beverage Control Act.
- “Retailer” means any person engaged in the sale or distribution of beer to the consumer.
35. “Sell” or “to sell,” when used in this chapter means in any prohibition, shall be construed to include, to solicit, or to receive an order for, to keep or expose for sale, to deliver for value or gratuitously, to peddle, to possess with intent to sell, to traffic in, for any consideration promised or obtained directly or indirectly or under any pretext or by any means whatsoever to procure or allow to be procured for any other person, and “sale” when so used shall include every act of selling as above defined.
36. “Special Use Permit” means a permit issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 10, Special Use Permit Act of the Utah Code.
37. “State Issued Retail Alcohol License” means any of the following licenses as defined in this Chapter:
  - a. A Bar Establishment License;
  - b. A Beer-Only Restaurant License;
  - c. A Beer Wholesaling License;
  - d. A Brewery Manufacturing License;
  - e. A Distillery Manufacturing License;

- f. A Full-Service Restaurant License;
- g. A Hotel License;
- h. A Limited-Service Restaurant License;
- i. A Liquor Warehousing License;
- j. A State Off-Premise Beer Retailer License;
- k. A On-Premise Banquet License;
- l. A Reception Center License;
- m. A Resort License;
- n. A Special Use Permit;
- o. A Temporary Beer Event Permit; and
- p. A Winery Manufacturing License.

38. "State Off-Premise Beer Retailer License" means a state license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 7, Part 4, Off-Premise Beer Retailer State License of the Utah Code.

39. "Temporary Beer Event Permit" means a permit issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 9, Part 4, Temporary Beer Event Permit of the Utah Code.

40. "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

- a. For purposes of this ordinance, Wine is considered a liquor.

41. "Winery Manufacturing License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 11, Part 3, Winery Manufacturing License, of the Utah Code.

~~"Wholesaler" means any person other than a brewer or retailer engaged in the importation for sale or in the sale of beer in wholesale or jobbing quantities.~~

#### **5.08.020 Business License Required for All Alcohol-Related Businesses.—Required for retail sale of light beer.**

1. **Business License Required:** ~~It is unlawful for any person or entity to own or operate an Alcohol-Related Business engage in the business of the sale of light beer at retail, in bottles or draft, within the corporate limits of the City without first having procured a business license therefor from the Lindon City Council of the city as hereinafter provided.~~

2. **State Issued Retail Alcohol License/Lindon City Off-Premise Beer Retailer License Required:** ~~No business license shall be issued to an Alcohol-Related Business until a separate, corresponding, State Issued Retail Alcohol License, or Lindon City Off-Premise Beer Retailer License, has been secured by the owner of the Alcohol-Related Business and proof thereof is provided to Lindon City.~~

- a. ~~If an applicant is required to show proof of a city business license in order to secure a State Issued Retail Alcohol License, the business license clerk may issue a temporary Alcohol Related Business License that shall be valid for 30 days, provided the applicant meets all other requirements of this Section.~~

b. ~~If an applicant, who has been issued a temporary business license under this Section, fails to provide proof of a State Issued Retail Alcohol License to the City within 30 days of the issuance of the temporary business license, the application for a business license shall automatically be deemed to have been withdrawn, and of no further effect.~~

- i. ~~The right to operate an Alcohol-Related Business within the City shall cease without further action or notice from the Lindon City.~~

ii. ~~Each day the Alcohol-Related Business continues to operate after a temporary business license has lapsed under this Section shall constitute a separate violation of this Chapter.~~

3. **Qualifications of Licensee:** ~~A business license may not be granted for an Alcohol-Related Business:~~

- a. ~~Unless the licensee is of good moral character, over 21 years of age, and lawfully present in the United States;~~

b. ~~To anyone who has been convicted of a felony or misdemeanor involving moral turpitude; or~~

c. ~~To any partnership, association, or corporation if any member, director, or officer, lacks the qualifications set forth in this Chapter.~~

4. **Written Disclosures:** ~~An application for an Alcohol-Related Business License shall be accompanied by written disclosures and information verifying the qualifications of the licensee and shall include:~~

- a. ~~Proof of the applicant's identification and lawful presence in the United States;~~

b. ~~A completed BCI background check;~~

- i. To the extent permitted by state and/or federal law, all BCI background checks will remain confidential and protected as a private record not available for public inspection.
  - c. The City may consult any and all publicly available sources for information on the applicant including but not limited to databases for any outstanding warrants, protective orders, or civil judgments and may require additional disclosures as may be necessary to ensure the good moral character of any applicant;
  - d. Partnerships, associations, and corporations applying for an Alcohol-Related Business License shall provide the required written disclosures for each individual member, director, and officer;
  - e. A copy of the applicant's Responsible Alcohol Service Plan; and
  - f. A map showing proximity of the proposed Alcohol-Related Business to Community Locations and verification that State Issued Retail Alcohol License holders comply with the proximity requirements of §32B-1-202 of the Utah Code.
    - i. Applicants for a Lindon City Off-Premise Beer Retailer License must show compliance with the proximity to Community Locations requirements as required by Section 5.08.030(5) of this Chapter.
5. **License Fee:** All applicants for an initial Alcohol-Related Business License shall pay a license fee in the amount of \$300.00, or in the amount as may be amended by the Lindon City Council and set forth in the Lindon City Fee Schedule.
- a. An Alcohol Related Business must be renewed on an annual basis and shall pay a renewal fee as set forth in Section 5.08.070.
6. **License Does Not Constitute Written Consent:** A business license issued under this Chapter shall not constitute the written consent of Lindon City to an application to the Utah Alcoholic Beverage Control Commission for a retail license as required by the Utah Alcoholic Beverage Control Act.
7. **Display of License:** Both the business license and the State Issued Retail Alcohol License or Lindon City Off-Premise Beer Retailer License shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued.
8. **Separate Locations:** A business license shall be required for each place of sale or service of Alcohol.
9. **Revocation of Alcohol-Related Business License:** All Alcohol-Related Business licenses holders shall comply with all applicable provisions of the Alcoholic Beverage Control Act of Utah and the established regulations of the Alcoholic Beverage Control Commission at all times in the operations and maintenance of their Alcohol-Related Businesses, including Alcohol Training and Education Seminars for employees. If at any time such a license holder fails to comply with such regulations or if the State Issued Retail Alcohol License or Lindon City Off-Premise Beer Retailer License, is revoked or denied, the business license may be revoked and declared null and void by the business license clerk.
- a. Any person aggrieved by any decision of the business license clerk with respect to the revocation of a business license based on a finding of non-compliance with the Alcoholic Beverage Control Act may appeal to the Lindon City Council.
    - i. The appeal must be filed within 10 days of the business license clerk issuing the finding of non-compliance.
    - ii. Upon receipt of the written notice of appeal, a time and place for hearing such appeal shall be set within 30 days and notice shall be given to such person of the time and place of the hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at their last known address.
    - iii. The City Council shall have authority to determine all questions raised on such appeal by a preponderance of the evidence.
  - b. The revocation of a State Issued Retail Alcohol License by the Utah Alcoholic Beverage Control Commission shall be a per se reason for revocation of the corresponding business license for which there is no right of appeal.
  - c. In the event that a State Issued Retail Alcohol License is reinstated after a corresponding business license has been revoked by Lindon City, the owner of an Alcohol-Related Business must apply for and secure a new business license from the City before resuming operations of the Alcohol-Related Business. -(Ord. 2004 7, amended, 2004; Ord. 98 1, repealed and replaced, 2000; Prior code §6 1)

**5.08.030 Off-Premise Beer Retailer License. ~~License Required for wholesale sale of beer.~~**

1. **Lindon City Off-Premise Beer Retailer License Required:** It is unlawful for any person within the limits of Lindon City to engage in the business of the retail sales of Beer to a patron for consumption off of the retailer's premises ~~selling beer at wholesale within the limits of the city~~ without first obtaining a Lindon City Off-Premise Beer Retailer License license therefor from Lindon City, the Alcoholic Beverage Control Commission of Utah and paying the required fee therefor. (Ord. 2004 7, amended, 2004; Ord. 98 1, repealed and replaced, 2000; Prior code §6-3)
2. **State Off-Premise Beer Retailer License Required:** No Lindon City Off-Premise Beer Retailer License shall be issued to an Off-Premise Beer Retailer until a separate State Off-Premise Beer Retailer License has been obtained from the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 7, Part 4 of the Utah Code.
3. **Qualifications of Licensee:** A Lindon City Off-Premise Beer Retailer License may not be granted:
  - a. Unless the licensee is of good moral character, over 21 years of age, and lawfully present in the United States;
  - b. To anyone who has been convicted of a felony or misdemeanor involving moral turpitude; or
  - c. To any partnership, association, or corporation if any member, director, or officer, lacks the qualifications Set Forth in this Chapter.
4. **Written Disclosures:** An application for a Lindon City Off-Premise Beer Retailer License shall be accompanied by written disclosures and information verifying the qualifications of the licensee and shall include:
  - a. Proof of the applicant's identification and lawful presence in the United States;
  - b. A completed BCI background check;
    - i. To the extent permitted by state and/or federal law, all BCI background checks will remain confidential and protected as a private record not available for public inspection.
  - c. The City may consult any and all publicly available sources for information on the applicant including but not limited to databases for any outstanding warrants, protective orders, or civil judgments and may require additional disclosures as may be necessary to ensure the good moral character of any applicant.
  - d. Partnerships, associations, and corporations applying for an Alcohol-Related Business license shall provide the required written disclosures for each individual member, director, and officer.
  - e. A floor plan of the premises that outlines the location of each beer display;
  - f. A copy of the applicant's Responsible Alcohol Service Plan.
  - g. A map showing the proximity of the proposed Off-Premise Beer Retail location and Community Locations.
  - h. A signed consent form stating that the applicant will permit an authorized representative of Lindon City or any law enforcement officer to have unrestricted right to enter the licensed premises.
5. **Proximity to Community Locations:** No Lindon City Off-Premise Beer Retailer License may be issued if on the date the application is submitted there is a Community Location within 600 feet of the proposed retail location, as measured from the nearest entrance of the proposed retail location by following the shortest route of ordinary pedestrian travel to the property boundary of the Community Location, or within 300 feet of the proposed retail location, measured in a straight line from the nearest entrance of the proposed retail location to the nearest property boundary of the Community Location.
  - a. An Off-Premise Beer Retailer operating prior June 30, 2018, may continue to operate within proximity to the Community Locations as they existing at the time the original license was issued, provided that there has been no lapse in the use of the property as an Off-Premise Beer Retailer.
    - i. This right to continue operations as an Off-Premise Beer Retailer under previous proximity requirements shall not be terminated based on change in ownership of the Off-Premise Beer Retailer or ownership of the real property on which the Off-Premise Beer Retailer is located.
6. **Lindon City Off-Premise Beer Retailer License for a Brewery Manufacturing License:** The owner of a properly issued Brewery Manufacturing License may apply for and receive a Lindon City Off-Premise Beer Retailer License provided that the retail portion of such facility complies with the requirements of this Chapter and the owner follows and complies with the requirements of this Chapter and with the provisions of the Utah Alcoholic Beverage Control Act.
7. **License Fee:** All applicants for a Lindon City Off-Premise Beer Retailer License shall pay a license fee in the amount of \$300 or in the amount as may be amended by the Lindon City Council and set forth in the Lindon City Fee Schedule.

- a. A Lindon City Off-Premise Business License must be renewed on an annual basis and an applicant shall pay a renewal fee as set forth in Section 5.08.070.
8. **Separate Locations:** A separate Lindon City Off-Premise Beer Retailer License shall be required for each place or location of Off-Premise Beer Retail sales.
9. **Separation of Beer from Nonalcoholic Beverages and Notice to Consumers:** All Beer sold by an Off-Premise Beer Retailer shall be displayed in an area that is visibly separate and distinct from locations in which nonalcoholic beverages are displayed and sold.
- a. Display areas containing beer shall be labeled with a sign that is prominent and easily readable by a consumer and meets the requirements of the Off-Premise Beer Retailer Act found in Title 32B, Chapter 7 of the Utah State Code and informs the consumer that the beverages contain alcohol.
10. **Alcohol Training and Education:** All Off-Premise Beer Retailers shall ensure that all staff selling Beer, or supervising the sale of Beer, are properly trained pursuant to the requirements of the Alcohol Training and Education Act as set forth in Title 32B, Chapter 5, Part 4 of the Utah Code.
- a. An individual hired with the responsibility to sell Beer, or supervise the sale of Beer, for an Off-Premise Beer Retailer shall complete an alcohol training and education seminar within 30 days of the date on which they begin such employment if they do not have a valid record of previously completing such training.
- b. Lindon City shall immediately suspend the license of an Off-Premise Beer Retailer that allows an individual to work as a supervisor or manager of the sale of Beer without having a valid record that the individual completed an alcohol training and education seminar.
11. **Staff Authorized to Sell Beer/Maintenance of Records**
- a. A minor may not sell Beer to consumers unless;
- i. The minor is at least 16 years of age;
- ii. Has been properly trained pursuant to the requirements of the Alcohol Training and Education Act; and
- ii. Is directly supervised by a person 21 years of age or older who has been properly trained pursuant to the requirements of the Alcohol Training and Education Act.
- b. All Off-Premise Beer Retailers shall identify and maintain identifying information of all staff who directly sell or supervise the sale of beer to patrons for consumption off the premises pursuant to the requirements of the Off-Premise Beer Retailer Act found in Title 32B, Chapter 7 of the Utah State and shall make such records available for immediate inspection by a peace officer or other City representative upon request.
- c. Any Off-Premise Beer Retailer who is found to have failed to maintain the records as required by this Chapter and/or by the Utah Alcoholic Beverage Control Act shall be subject to a fine of up to \$250 for each employee for whom the records are not correctly maintained.
12. **Penalties Related to Sales to Minors:**
- a. In addition to any criminal penalty that might be imposed, Lindon City shall impose the following sanctions upon an Off-Premise Beer Retailer if an individual who, while on duty as staff of an Off-Premise Beer Retailer, is found in violation of the law involving the sale of an Alcoholic Product to a minor.
- i. Upon the first violation, a written warning shall be issued against the Off-Premise Beer Retailer;
- ii. Upon a second violation a civil fine of \$250 shall be imposed against the Off-Premise Beer Retailer;
- iii. Upon a third violation an Off-Premise Beer Retailer shall pay a civil fine of \$500;
- iv. Upon a fourth violation an Off-Premise Beer Retailer shall pay a civil fine of \$500, have Off-Premise Beer Retailer License suspended for 30 days and be placed on probation for one year;
- v. Any violation occurring during the probationary period will result in immediate revocation of the Off-Premise Beer Retailer License for a period of at least six months and an additional civil fine of \$500;
- vi. Any violation occurring after an Off-Premise Beer Retailer has had their license revoked for at least a six-month period will result in the permanent revocation of the Off-Premise Beer Retailer License; and
- vii. Failure to pay the fines imposed pursuant to this Chapter within 30 days of the day on which the fine is imposed is grounds for suspension of the license until the payment is made.
- b. In addition to any criminal penalty that might be imposed, an individual who, while on duty as staff of an Off-Premise Beer Retailer and after having completed an alcohol training and education

seminar, is found in violation of the law involving the sale of an Alcoholic Product to a Minor is subject to the following administrative sanctions:

- i. Upon a first violation the individual may not sell or directly supervise a sale of Beer to any customer until the individual retakes and completes an alcohol training education seminar;
- ii. Upon a second violation an individual may not sell or directly supervise the sale of Beer for the longer of a period of 90 days or until the individual retakes and completes an alcohol training education seminar and completes any additional training that may be required by Lindon City;
- iii. Upon a third violation an individual may not sell or directly supervise the sale of Beer for a period of one year and must again complete the alcohol and training education seminar and any other additional training that Lindon City may require.
- c. Any Off-Premise Beer Retailer found to be allowing an individual to sell or supervise the sale of Beer while being suspended pursuant to the provisions of this Chapter shall immediately have their Lindon City Off-Premise Beer Retailer License suspended.
- d. Prior to imposing any sanction provided for under this Section, Lindon City shall hold an administrative hearing administered by the City Administrator, or a hearing officer appointed by the City Administrator, if requested by the Off-Premise Beer Retailer or the employee alleged to have violated the law regarding the sale of alcohol to a minor.
  - i. Upon a request for an administrative hearing, the City Administrator, or the appointed hearing officer, shall give notice of the hearing and provide an opportunity to be heard within 30 days of the request.
  - ii. The prescribed sanction may be imposed only if the City Administrator, or the appointed hearing officer, finds by a preponderance of the evidence that the violation occurred.

**13. Revocation of Lindon City Off-Premise Beer Retailer License:** All Lindon City Off-Premise Beer Retailer License holders shall comply with all applicable provisions of this Chapter, the Alcoholic Beverage Control Act found in Title 32B of the Utah Code, and the established regulations of the Utah Alcoholic Beverage Control Commission, including Alcohol Training and Education Seminars for employees.

- a. The City Recorder may suspend or revoke a Lindon City Off-Premise Beer Retailer License if:
  - i. At any time a license holder fails to comply with the provisions of this Chapter, the Alcoholic Beverage Control Act found in Title 32B of the Utah Code, or the established regulations of the Alcoholic Beverage Control Commission, including Alcohol Training and Education Seminars for employees;
  - ii. The State Off-Premise Beer Retailer License is revoked or denied by Alcoholic Beverage Control Commission;
  - iii. The applicant knowingly made a false statement of fact required to be revealed in the application for the license, or in any amendment or report to be made thereunder; or
  - iv. Continuance of the license would be inconsistent with public health, safety or general welfare of the residents of Lindon City.
- b. Any person aggrieved by any decision of the City Administrator, or the appointed hearing officer, with respect to the revocation of a Lindon City Off-Premise Beer Retailer License based on a finding of non-compliance with this Chapter or with the Alcoholic Beverage Control Act, may appeal to the Lindon City Council by filing a notice of appeal with the City Recorder.
  - i. The appeal must be filed within 10 days of the City Administrator, or the appointed hearing officer, issuing the decision to revoke the Lindon City Off-Premise Beer Retailer License.
  - ii. Upon receipt of the written notice of appeal, a time and place for hearing such appeal shall be set within 30 days and notice shall be given to such person of the time and place of the hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at their last known address.
  - iii. The City Council shall have authority to determine all questions raised on such appeal.
- c. The revocation of the corresponding State Issued Off-Premise Beer Retailer License by the Utah Alcoholic Beverage Control Commission shall be a per se reason for the revocation of a Lindon City Off-Premise Beer Retailer License for which there is no right of appeal.
- d. In the event that there is a reinstatement of a State Issued Off-Premise Beer Retailer License the Off-Premise Beer Retailer must reapply for and secure a new Lindon City Off-Premise Beer Retailer License.

- i. Lindon City shall consider and weigh all circumstances and conditions related to the suspension and reinstatement of the State Issued Off-Premise Beer Retailer License and may deny an application for a Lindon City Off-Premise Beer Retailer License if the City is not satisfied that the circumstances leading the original suspension have not be adequately addressed or remedied.

**5.08.040 Written Consent to Applications for State Issued Retail Alcohol License.**

~~License—Classification and privileges.~~ With the exception of Off-Premise Beer Retailers, the licensing of Alcohol-Related Businesses is reserved to the Utah Alcoholic Beverage Control Commission. However, as part of the state licensing process, applicants seeking a State Issued Retail Alcohol License for a facility or event in Lindon City are required to obtain the written consent of Lindon City for such license or permit. The process for issuing Lindon's City's written consent shall be as follows:

1. **Requirements to Issue Written Consent:** The City Recorder is authorized to issue Lindon City's written consent to an application for a State Issued Retail Alcohol License, upon finding that an applicant has satisfied the following requirements:

a. That the applicant meets the required qualifications of a licensee as set forth in Section 5.08.020(2) of this Chapter;

b. That the applicant has provided Lindon City with all written disclosures required in Section 5.08.020(4) of this Chapter.

c. That the location of the proposed Alcohol-Related Business meets the respective requirements for proximity to Community Locations as set forth in this Chapter and in the Utah Alcohol Control Act.

d. That the applicant has paid the Business License Fee set forth in Section 5.08.020(5) of this Chapter; and

e. That the applicant has not had any State Issued Retail Alcohol Licenses or a Lindon City Off-Premise Beer Retailer License revoked or suspended within the last six months.

2. **Issuance of Consent or Denial:** The City Recorder shall issue the written consent to a request for a State Issued Retail Alcohol License, or a written denial of such request if the City Recorder finds that any of the requirements set forth in this Subsection have not been satisfied, within 30 days of receiving the request for written consent.

3. **Appeal of a Denial to Issue Written Consent:** Any person aggrieved by any decision of the City Recorder clerk with respect to the denial of a request for written consent may appeal to the Lindon City Council by filing a written notice of appeal.

a. Any appeal must be filed within 10 days of the City Recorder issuing the written denial of the request for consent.

b. Upon receipt of the written notice of appeal, a time and place for hearing the appeal shall be set within 30 days and notice shall be given to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at their last known address.

c. The City Council shall have the authority to determine all questions raised on the appeal by a preponderance of the evidence.

~~1. Retail licenses issued hereunder shall be of the following type and shall carry the following privileges and be numbered numerically commencing from the number one:~~

~~a. *Retail Beer License.* A retail beer license shall entitle the licensee to sell beer in containers or on draft for consumption on or off the premises in accordance with the Utah Alcoholic Beverage Control Act.~~

~~b. *Seasonal License.* A seasonal license shall carry the privileges of the regular retail beer license and shall be for a period of less than one year.~~

~~2. It is unlawful for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the privileges of the Utah Alcoholic Beverage Control Act. ((Ord. 2004-7, amended, 2004; Ord. 98-1, repealed and replaced, 2000; Prior code §6-4)~~

**5.08.050 Employment of Minors by a Bar Establishment Licensee Prohibited. License—Application.**

Pursuant to the authority granted by the § 32B-6-406 of Utah Code, no Bar Establishment Licensee shall employ any minor to work on the premises where an Alcohol Product is served. All applications for licenses authorized by this chapter shall be verified and filed with the city council and shall state the applicant's name in full and that he has

~~complied with the requirements and possesses the qualifications specified in the Utah Alcoholic Beverages Control Act, and if the applicant is a co-partnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors, and must be subscribed by the applicant who must state under oath that the facts stated therein are true. Applicants must furnish such information, including a certificate of at least five resident freeholders of the city to the effect that the licensee bears a good moral character and is a fit and proper person to be granted a license, as and when the city council shall require. (Ord. 2004-7, amended, 2004; Ord. 98-1, repealed and replaced, 2000; Prior code §6-5)~~

**5.08.060 — Licensee qualifications.**

~~No person shall be granted a retail license unless he shall be qualified as provided in the Utah Alcoholic Beverage Control Act. (Ord. 2004-7, amended, 2004; Ord. 98-1, repealed and replaced, 2000; Prior code §6-6)~~

**5.08.070 — License Bond.**

~~No license shall be granted by the city council until the applicant shall have filed with the council a bond as provided by the Utah Alcoholic Beverage Control Act. (Ord. 2004-7, amended, 2004; Ord. 98-1, repealed and replaced, 2000; Prior code §6-7)~~

**5.08.080 — License Council authority to refuse.**

~~The city council may refuse to grant any license applied for if the city council finds that:~~

- ~~1. The applicant does not possess all of the qualifications required by the Alcoholic Beverage Control Act; or~~
- ~~2. The applicant fails to comply with the ordinances of the city, or the rules, regulations and orders of the Utah County Health Department; or~~
- ~~3. The applicant has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the applicant as a person engaged in the business of the sale or retail of intoxicating liquor or beer; or~~
- ~~4. The applicant has committed any act involving dishonesty, fraud or deceit with intent to substantially benefit himself or another, or substantially injure another; or~~
- ~~5. The applicant knowingly made a false statement of fact required to be revealed in the application for the license, or in any amendment or report to be made thereunder; or~~
- ~~6. Continuance of the license would be inconsistent with public health, safety or general welfare. (Ord. 2004-7, amended, 2004; Ord. 2002-3, amended, 2002; Ord. 98-1, repealed and replaced, 2000; Ord. 133-§1, amended, 1985; Ord. 126-§1, amended, 1985; Prior code §6-12)~~

**5.08.090 — License Permit required.**

~~No license shall be issued until the applicant therefor shall have first produced from the Utah County Health Department a permit therefor, which permit shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage or distribution, or sale of such beer, complies with all health regulations of the city and of the state. (Ord. 98-1, repealed and replaced, 2000; Ord. 2002-3, amended, 2002; Ord. 133-§1, amended, 1985; Prior code §6-9)~~

**5.08.10060 License--Transfer.**

~~All Licenses issued under this Chapter shall not be transferable and upon revocation thereof by the city council the fee paid by the licensee to the City for said license shall be forfeited to the City. (Ord. 98-1, repealed and replaced, 2000; Prior code §6-10)~~

**5.08.070140 License--Application fee--Expiration date.**

- ~~1. Applications provided for in this Chapter shall be accompanied by the fees established by this code and as may be modified by the City Council and set forth in the Lindon City Fee Schedule, municipal council, which fee shall be deposited in the city treasury if the license is granted and returned to the applicant if denied.~~
- ~~2. All Alcohol-Related Business licenses issued hereunder shall expire on the 31st day of December, unless canceled sooner canceled, and must be renewed annually on or before January 1<sup>st</sup>.~~
  - ~~a. A fee for the renewal of an Alcohol-Related Business License shall be paid in an amount established by the Lindon City Council and set forth in the Lindon City Fee Schedule, excepting that seasonal licenses shall expire on the date set forth therein. (Ord. 98-1, repealed and replaced, 2000; Prior code §6-11)~~

**5.08.120 — General restrictions.**

No person shall sell beer at any public dance or to any person intoxicated, or under the influence of an intoxicating beverage. No license shall be granted to sell beer in any dance hall, theater, or in the proximity of any\* church or school. No person shall sell beer to any person under the age of 21 years. It is unlawful to sell beer on Sunday and between the hours of one a.m. and seven a.m. the other six days of the week. It is unlawful to advertise the sale of light beer except under such regulations as are made by the liquor control commission of Utah; providing that a simple designation of the fact that beer is sold under city license may be placed in or upon the window or front of the licensed premises. It is unlawful to sell beer through a drive up window. No licensee shall violate the terms of the license issued, nor unless he shall be so licensed shall he sell bottled or draft beer for consumption on the premises, or permit any beer to be consumed on the premises.

\*All licenses issued hereunder shall expire on the 31st day of December unless sooner canceled, excepting that seasonal licenses shall expire on the date set forth therein.

(Ord. 98-1, repealed and replaced, 2000; Ord. 30, amended, 1975; Prior code §6-12)

#### **5.08.130 — Consumption of intoxicating beverages on premises.**

It is unlawful for any person to consume any intoxicating liquor or beverage on any premises licensed under this chapter or to have on said premises any open vessel or container containing intoxicating liquor or beverage. Unless the establishment be so licensed for on premise consumption. It is unlawful for any licensee hereunder, his agent or employee, to allow the consumption of any intoxicating liquor or beer on any premises licensed hereunder, or to allow any vessel or container containing intoxicating liquor or beer to remain open on said premises, unless the licensee be so licensed for on premise consumption. (Ord. 2004-7, amended, 2004; Ord. 98-1, repealed and replaced, 2000; Prior code §6-13)

#### **5.08.140 — License Revocation.**

The city council of the city may, after notice and a hearing, revoke any license granted hereunder if the city council finds that:

1. The licensee does not possess all of the qualifications required by the Liquor Control Act; or
2. The licensee fails to comply with the ordinances of the city, or the rules, regulations and orders of the Utah County Health Department.
3. The licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the applicant or licensee as a person engaged in the business of the sale or retail of intoxicating liquor; or
4. The licensee has committed any act involving dishonesty, fraud or deceit with intent to substantially benefit himself or another, or substantially injure another; or
5. The licensee knowingly made a false statement of fact required to be revealed in the application for the license, or in any amendment or report to be made thereunder; or
6. Continuance of the license would be inconsistent with public health, safety or general welfare. (Ord. 98-1, amended, 2000; Ord. 2002-3, amended, 2002; Ord. 133 §1, amended, 1985; Ord. 126 §2, amended, 1985; Prior code §6-14)

#### **5.08.080150 Inspection of licensed premises.**

All premises licensed under this chapter shall be subject to inspection by any officer, agent, or peace officer of the City or the Alcoholic Beverage Control Commission, or the State Board of Health, and every licensee shall, at the request of the City, State Board or Utah County Health Department, furnish to them it samples of beer which the licensee shall have for sale. (Ord. 2004-7, amended, 2004; Ord. 2002-3, amended, 2002; Ord. 98-1, amended, 2000; Ord. 133 §1, amended, 1985; Prior code §6-15)

#### **5.08.090160 Violation--Penalty.**

In addition to any administrative penalties provided for in this Chapter, it is unlawful for any person to violate any provision of this Chapter. Unless otherwise provided herein, any person convicted of violating any provision of this Chapter shall be guilty of a Class B misdemeanor. Each day that any violation or failure to perform an act required under this Chapter continues shall constitute a separate offense. (Ord. 2004-7, amended, 2004; Ord. 98-1, amended, 2000; Prior code §6-16)

#### **5.08.170 — Required Beer Handler's Permit.**

A licensee involved in the transaction of retail beer sales for off-premise consumption shall require all employees involved in the transaction of retail beer sales to obtain a Beer Handler's Permit from the Utah County Health

Department. All employees of a licensee involved in the transaction of retail beer sales will be required to possess and wear a Beer Handler's Permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.

New employees of a licensee shall obtain a Beer Handler's Permit within thirty (30) days of hire. During this thirty (30) day period, the employee may sell alcoholic beverages in accordance with the Utah Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of this chapter. (Ord. 2004-7, amended, 2004)

#### **5.08.180 — Licensee Duty to Inform.**

The licensee is required to inform the Utah County Health Department within thirty (30) days of any employee possessing a Beer Handler's Permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages, or when the licensee becomes aware of any other violation involving the sale of an alcoholic beverage. (Ord. 2004-7, amended, 2004)

#### **5.08.190 — Compliance checks.**

Licensees shall permit law enforcement officers and Utah County Health Department employees to conduct random Beer Handler's Permit compliance checks on the licensee's premises. (Ord. 2004-7, amended, 2004)

#### **5.08.200 — Application process for a Beer Handler's Permit.**

To obtain a Beer Handler's Permit, applicants must:

1. Fill out a "Beer Handler's Permit" application form available from the Utah County Health Department.
2. Produce acceptable photo identification showing the identity of the applicant;
3. Attend a Beer Handler's Permit training session administered by, or approved by, the Utah County Health Department; and
4. Pass the Beer Handler's Permit test given by the Utah County Health Department.

If paragraphs 1, 2, 3, and 4, are satisfied, the Utah County Health Department shall issue the applicant a Beer Handler's Permit photo identification card. This permit must be worn by the applicant while on duty such that the permit shall be clearly visible to any person. (Ord. 2004-7, amended, 2004)

#### **5.08.210 — Qualifications to obtain a Beer Handler's Permit.**

The applicant for a Beer Handler's Permit must satisfy the qualification requirements established by the Utah County Health Department. A permit shall not be granted to any individual who has had a felony conviction within three years, or a misdemeanor conviction involving alcohol or controlled substances within one year. (Ord. 2004-7, amended, 2004)

#### **5.08.220 — Penalties for violations by a Permit holder.**

A violation of this chapter or of any law involving the sale of an alcoholic beverage is a Class B misdemeanor. Additionally, an employee possessing a Beer Handler's Permit who is convicted of any law involving the sale of an alcoholic beverage is not only subject to prosecution, but shall incur a suspension of the employee's Beer Handler's Permit as follows:

1. 1st Violation — Automatic suspension of the employee's Beer Handler's Permit for a period of one (1) year.
2. 2nd Violation — Automatic suspension of the employee's Beer Handler's Permit for a period of one (1) year.
3. Any Subsequent Violation — Automatic suspension of the employee's Beer Handler's Permit for a period of three (3) years. (Ord. 2004-7, amended, 2004)

#### **5.08.230 — Licensee penalties.**

Any violation of this chapter by a licensee or any employee of the licensee shall subject the licensee to the following penalties:

1. Upon a first violation of this chapter the licensee shall be issued a warning;
2. Upon any violation of this chapter which occurs within twenty four (24) months of a prior violation, the licensee shall pay a civil fine of two hundred fifty dollars (\$250);
3. Upon any violation of this chapter which occurs within twenty four (24) months of two (2) prior violations, the licensee shall pay a civil fine of five hundred dollars (\$500) and the licensee shall have its license to sell beer suspended for a period of three (3) consecutive days, on a Thursday through Saturday;

4. Upon any violation of this chapter which occurs within twenty four (24) months of three (3) prior violation, the licensee shall pay a civil fine of five hundred dollars (\$500) and the licensee shall have its license to sell beer suspended for a period of thirty (30) consecutive days. Additionally, the licensee shall be placed on probation for a period of one (1) year. Any violation of this chapter by the licensee or any employee of the licensee during the period of probation shall result in the revocation of the licensee's license to sell beer. The licensee shall not be eligible to reapply for a new license for at least six (6) months from the date of revocation. Failure to pay any fine imposed for a violation of any provision of this chapter within thirty (30) days of the imposition of such fine shall be grounds for revocation of the licensee's license to sell beer. Nothing in this chapter shall limit the rights and powers of the Lindon City Council to grant, refuse to grant, or revoke a licensee's license to sell beer under this chapter. (Ord. 2004 7, amended, 2004)

**5.08.240 ——— Right to a Hearing-**

1. The licensee shall have the right to request a hearing to contest the existence of any violation of this chapter or the imposition of any penalty under this chapter. A written request for a hearing must be filed by the licensee with the Lindon City Administrator within fifteen (15) days of the date of mailing of the City's notice of a violation to the licensee. The request for a hearing shall include the licensee's name, address, telephone number, and a statement of the licensee's basis for disputing the existence of a violation or the imposition of a penalty. A timely request for a hearing shall stay the imposition of any penalty until the hearing is decided. The City Council's finding of a violation shall be considered final if the licensee fails to request a hearing within the time period set forth above.  
2. The City shall notify the licensee in writing of the date and time for the hearing. Hearings before the City Council shall be conducted informally. Formal rules of evidence and court procedure shall not apply. The hearings are administrative in nature, and hearsay is admissible, but the evidence must have some probative weight and reliability to be considered. The licensee shall be given an opportunity to be heard at the hearing, shall have the right to be represented by counsel, and may call witnesses. The City Council shall consider all of the evidence and shall take any action it deems appropriate as it relates to the licensee. The City Council's decision shall be made orally at the end of the hearing or in writing within ten (10) business days following the hearing. (Ord. 2004 7, amended, 2004)

**SECTION II: 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:

\_\_\_\_\_  
KATHRYN A. MOOSMAN  
City Recorder

Clean version w/changes included.

## Chapter 5.08 ALCOHOL SALES AND LICENSING

### Sections:

|                 |   |
|-----------------|---|
| <b>5.08.010</b> | <b>Definitions.</b>   |
| <b>5.08.020</b> | <b>Business License for Alcohol-Related Businesses.</b>                         |
| <b>5.08.030</b> | <b>Off-Premise Beer Retailer License.</b>                                       |
| <b>5.08.040</b> | <b>Written Consent to Applications for State Issued Retail Alcohol License.</b> |
| <b>5.08.050</b> | <b>Employment of Minors by a Bar Establishment Licensees Prohibited.</b>        |
| <b>5.08.060</b> | <b>License--Transfer.</b>   |
| <b>5.08.070</b> | <b>License--Application fee--Expiration date.</b>                               |
| <b>5.08.080</b> | <b>Inspection of licensed premises.</b>   |
| <b>5.08.090</b> | <b>Violation--Penalty.</b>  |

### **5.08.010 Definitions.**

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

1. "Alcoholic Beverage" means Beer or Liquor.
2. "Alcoholic Product" means a product that:
  - a. Contains at least 0.5% of alcohol by volume; and
  - b. Is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than 0.5% of alcohol by volume.
  - c. "Alcoholic Product" includes an alcoholic beverage.
  - d. "Alcoholic Product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
    - i. An extract, except an extract containing alcohol obtained by distillation when it is used as flavoring in the manufacturing of an alcoholic product;
    - ii. Vinegar;
    - iii. Cider;
    - iv. Essence;
    - v. Tincture;
    - vi. Food preparation; or
    - vii. An over-the-counter medicine.
3. "Alcohol-Related Business" means any enterprise, business, or operation that allows a person to hold, store, possess, or consume an Alcoholic Product on the premises of the business such as a restaurant, association, bar or any similar business which is required to obtain and maintain a State Issued License as defined in this Chapter and any Off-Premise Beer Retailer as defined by this Chapter.
4. "Alcohol Training and Education Seminar" means a seminar required by Title 32B, Chapter 5, Part 4, Alcohol Training and Education Act, of the Utah State Code and as described in Section 62A-15-401.
5. "Bar Establishment License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License of the Utah Code.
  - a. "Bar Establishment License" includes licenses designated by the Alcoholic Beverage Control Commission as:
    - i. A dining club license;
    - ii. An equity license;
    - iii. A fraternal license; or
    - iv. A bar license.
6. "Beer" means any beverage containing not less than 0.5% (one-half of one percent), but not more than 4% (four percent) of alcohol by volume, or 3.2% (three and two-tenths percent) weight and is obtained by the alcoholic fermentation of an infusion or decoction of any malted grain or similar products.
  - a. Beer may or may not contain hops or other vegetable products.
  - b. Beer includes beverages referred to as beer, ale, stout, lager, and porter.

- c. Beer includes malt or malted beverages but does not include a Flavored Malt Beverage.
  - d. Beer does not include Heavy Beer.
7. "Beer-Only Restaurant License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License of the Utah Code.
8. "Beer Retailer" means a business that:
- a. Is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
    - i. Is licensed as an Off-Premise Beer Retailer by Lindon City; or
    - ii. Is licensed by the Utah Department of Alcoholic Beverage Control as an On-Premise Beer Retailer.
9. "Beer Wholesaling License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 13, Beer Wholesaling License Act of the Utah Code.
10. "Brewery Manufacturing License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 11, Part 5, Brewery Manufacturing License of the Utah Code.
11. "Church" means a building set apart for worship in which religious services are held and with which clergy is associated, and that is tax exempt under the laws of the State of Utah.
12. "Community Location" means a:
- a. Public or private school;
    - i. For purposes of this ordinance, school means a building used primarily for the general education of minors and does not include an Educational Facility as defined in this Chapter.
  - b. A church;
  - c. A public library;
  - d. A public playground; and
  - e. A public park.
13. "Convention Center" means a facility that is in total at least 30,000 square feet and as may be further defined by rules adopted by the Utah Department of Alcoholic Beverage Control.
14. "Distillery Manufacturing License" means a license issued by the Utah Department of Alcoholic Beverage Control in accordance with Title 32B of the Utah Code, Chapter 11, Part 4, Distillery Manufacturing License.
15. "Education Facility" includes a nursery school, an infant day care center, and a trade or technical school, but does not include a public or private school as defined by this Chapter.
16. "Flavored Malt Beverage" means a beverage that contains at least 0.5% alcohol by volume and as is further defined in Section 32B-1-102 of the Utah Code.
- a. For purposes of this ordinance, Flavored Malt Beverage is considered a liquor.
17. "Full-Service Restaurant License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License of the Utah Code.
18. "Heavy Beer" means Beer, as defined herein, containing more than 4% alcohol by volume.
- a. For purposes of this ordinance, Heavy Beer is considered a liquor.
19. "Hotel License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act of the Utah Code.
20. "Identification Card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act of the Utah Code.
21. "Intoxicated" means that a person is significantly impaired as to the person's mental or physical functions as a result of the use of an Alcoholic Product, a controlled substance, a substance having the property of releasing toxic vapors; and exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an Alcoholic Product, the above-mentioned substances, or a combination of the same.
22. "Limited-Service Restaurant License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License of the Utah Code.
23. "Lindon City Off-Premise Beer Retailer License" means a license issued by Lindon City in accordance with the Provision of this Chapter.
24. "Liquor" means a liquid that:
- a. Is Alcohol, Alcoholic, spirituous, vinous, fermented, malt, or other liquid or combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks or drinkable liquids containing more than 0.5% (one-half percent) of alcohol by volume; and all mixtures, compounds or

- preparations, whether liquid or not, which contain more than 0.5% of alcohol by volume, and which are capable of human consumption.
- b. "Liquor" includes:
    - i. Flavored Malt Beverages;
    - ii. Heavy Beer; and
    - iii. Wine.
  - c. "Liquor" does not include Beer.
25. "Liquor Warehousing License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 12, Liquor Warehousing License Act of the Utah Code.
26. "Manufacture" means to distil, brew, rectify, mix, compound, process, ferment, or otherwise make an Alcoholic Product for personal use or for sale or distribution to others.
- "Minor" means an individual under the age of 21 years.
27. "Off-Premise Beer Retailer" means a beer retailer who is licensed by Lindon City, in accordance with this Chapter and by the Utah Department of Alcoholic Beverage Control in accordance with Title 32B, Chapter 7, Off-Premise Beer Retailer Act of the Utah Code, and is who engaged in the retail sale of Beer to a patron for consumption off of the beer retailer's premises.
- a. "Off-Premise Beer Retailer" does not include an On-Premise Beer Retailer.
28. "On-Premise Banquet License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B of the Utah Code, Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
29. "On-Premise Beer Retailer" means a Beer retailer who is authorized to sell, offer for sale, or furnish Beer under a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License of the Utah Code, and who is engaged in the sale of Beer for consumption on the licensed premises.
30. "Proof of Age" means an Identification Card.
- a. "Proof of Age" includes the following provided they include the date of birth and have a picture affixed, including:
    - i. A valid driver license issued by the State of Utah;
    - ii. A valid driver license from any other state;
    - iii. A military identification; or
    - iv. A valid passport.
  - b. Proof of Age does not include a driving privilege card issued pursuant to Section 53-3-207 of the Utah Code.
31. "Reception Center" means a business that operates facilities that are at least 5,000 square feet; and has as its primary purpose the leasing of the facilities to a third party for the third party's event.
32. "Reception Center License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B of the Utah Code, Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
33. "Resort License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B of the Utah Code, Chapter 5, Retail License Act, and Chapter 8, Resort License Act.
34. "Responsible Alcohol Service Plan" means a written set of policies and procedures that outlines measures to prevent employees from over-serving alcoholic beverages to customers, serving alcoholic beverages to customers who are Intoxicated, and serving alcoholic beverages to Minors as required by the Utah Alcoholic Beverage Control Act.
35. "Sell" or "to sell," when used in this chapter means to solicit, or to receive an order for, to keep or expose for sale, to deliver for value or gratuitously, to peddle, to possess with intent to sell, to traffic in, for any consideration promised or obtained directly or indirectly or under any pretext or by any means whatsoever to procure or allow to be procured for any other person, and "sale" when so used shall include every act of selling as above defined.
36. "Special Use Permit" means a permit issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 10, Special Use Permit Act of the Utah Code.
37. "State Issued Retail Alcohol License" means any of the following licenses as defined in this Chapter:
- a. A Bar Establishment License;
  - b. A Beer-Only Restaurant License;
  - c. A Beer Wholesaling License;
  - d. A Brewery Manufacturing License;

- e. A Distillery Manufacturing License;
  - f. A Full-Service Restaurant License;
  - g. A Hotel License;
  - h. A Limited-Service Restaurant License;
  - i. A Liquor Warehousing License;
  - j. A State Off-Premise Beer Retailer License;
  - k. A On-Premise Banquet License;
  - l. A Reception Center License;
  - m. A Resort License;
  - n. A Special Use Permit;
  - o. A Temporary Beer Event Permit; and
  - p. A Winery Manufacturing License.
38. "State Off-Premise Beer Retailer License" means a state license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 7, Part 4, Off-Premise Beer Retailer State License of the Utah Code.
39. "Temporary Beer Event Permit" means a permit issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 9, Part 4, Temporary Beer Event Permit of the Utah Code.
40. "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.
- a. For purposes of this ordinance, Wine is considered a liquor.
41. "Winery Manufacturing License" means a license issued by the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 11, Part 3, Winery Manufacturing License, of the Utah Code.

#### **5.08.020 Business License Required for All Alcohol-Related Businesses.**

1. **Business License Required:** It is unlawful for any person or entity to own or operate an Alcohol-Related Business within the corporate limits of the City without first having procured a business license therefor from Lindon City as hereinafter provided.
2. **State Issued Retail Alcohol License/Lindon City Off-Premise Beer Retailer License Required:** No business license shall be issued to an Alcohol-Related Business until a separate, corresponding, State Issued Retail Alcohol License, or Lindon City Off-Premise Beer Retailer License, has been secured by the owner of the Alcohol-Related Business and proof thereof is provided to Lindon City.
  - a. If an applicant is required to show proof of a city business license in order to secure a State Issued Retail Alcohol License, the business license clerk may issue a temporary Alcohol Related Business License that shall be valid for 30 days, provided the applicant meets all other requirements of this Section.
  - b. If an applicant, who has been issued a temporary business license under this Section, fails to provide proof of a State Issued Retail Alcohol License to the City within 30 days of the issuance of the temporary business license, the application for a business license shall automatically be deemed to have been withdrawn, and of no further effect.
    - i. The right to operate an Alcohol-Related Business within the City shall cease without further action or notice from the Lindon City.
    - ii. Each day the Alcohol-Related Business continues to operate after a temporary business license has lapsed under this Section shall constitute a separate violation of this Chapter.
3. **Qualifications of Licensee:** A business license may not be granted for an Alcohol-Related Business:
  - a. Unless the licensee is of good moral character, over 21 years of age, and lawfully present in the United States;
  - b. To anyone who has been convicted of a felony or misdemeanor involving moral turpitude; or
  - c. To any partnership, association, or corporation if any member, director, or officer, lacks the qualifications set forth in this Chapter.
4. **Written Disclosures:** An application for an Alcohol-Related Business License shall be accompanied by written disclosures and information verifying the qualifications of the licensee and shall include:
  - a. Proof of the applicant's identification and lawful presence in the United States;
  - b. A completed BCI background check;
    - i. To the extent permitted by state and/or federal law, all BCI background checks will remain confidential and protected as a private record not available for public inspection.
  - c. The City may consult any and all publicly available sources for information on the applicant including but not limited to databases for any outstanding warrants, protective orders, or civil judgments

and may require additional disclosures as may be necessary to ensure the good moral character of any applicant;

d. Partnerships, associations, and corporations applying for an Alcohol-Related Business License shall provide the required written disclosures for each individual member, director, and officer;

e. A copy of the applicant's Responsible Alcohol Service Plan; and

f. A map showing proximity of the proposed Alcohol-Related Business to Community Locations and verification that State Issued Retail Alcohol License holders comply with the proximity requirements of §32B-1-202 of the Utah Code.

i. Applicants for a Lindon City Off-Premise Beer Retailer License must show compliance with the proximity to Community Locations requirements as required by Section 5.08.030(5) of this Chapter.

5. **License Fee:** All applicants for an initial Alcohol-Related Business License shall pay a license fee in the amount of \$300.00, or in the amount as may be amended by the Lindon City Council and set forth in the Lindon City Fee Schedule.

a. An Alcohol Related Business must be renewed on an annual basis and shall pay a renewal fee as set forth in Section 5.08.070.

6. **License Does Not Constitute Written Consent:** A business license issued under this Chapter shall not constitute the written consent of Lindon City to an application to the Utah Alcoholic Beverage Control Commission for a retail license as required by the Utah Alcoholic Beverage Control Act.

7. **Display of License:** Both the business license and the State Issued Retail Alcohol License or Lindon City Off-Premise Beer Retailer License shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued.

8. **Separate Locations:** A business license shall be required for each place of sale or service of Alcohol.

9. **Revocation of Alcohol-Related Business License:** All Alcohol-Related Business license holders shall comply with all applicable provisions of the Alcoholic Beverage Control Act of Utah and the established regulations of the Alcoholic Beverage Control Commission at all times in the operations and maintenance of their Alcohol-Related Businesses, including Alcohol Training and Education Seminars for employees. If at any time such a license holder fails to comply with such regulations or if the State Issued Retail Alcohol License or Lindon City Off-Premise Beer Retailer License, is revoked or denied, the business license may be revoked and declared null and void by the business license clerk.

a. Any person aggrieved by any decision of the business license clerk with respect to the revocation of a business license based on a finding of non-compliance with the Alcoholic Beverage Control Act may appeal to the Lindon City Council.

i. The appeal must be filed within 10 days of the business license clerk issuing the finding of non-compliance.

ii. Upon receipt of the written notice of appeal, a time and place for hearing such appeal shall be set within 30 days and notice shall be given to such person of the time and place of the hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at their last known address.

iii. The City Council shall have authority to determine all questions raised on such appeal by a preponderance of the evidence.

b. The revocation of a State Issued Retail Alcohol License by the Utah Alcoholic Beverage Control Commission shall be a per se reason for revocation of the corresponding business license for which there is no right of appeal.

c. In the event that a State Issued Retail Alcohol License is reinstated after a corresponding business license has been revoked by Lindon City, the owner of an Alcohol-Related Business must apply for and secure a new business license from the City before resuming operations of the Alcohol-Related Business.

#### **5.08.030 Off-Premise Beer Retailer License.**

1. **Lindon City Off-Premise Beer Retailer License Required:** It is unlawful for any person within the limits of Lindon City to engage in the business of the retail sales of Beer to a patron for consumption off of the retailer's premises without first obtaining a Lindon City Off-Premise Beer Retailer License from Lindon City.

2. **State Off-Premise Beer Retailer License Required:** No Lindon City Off-Premise Beer Retailer License shall be issued to an Off-Premise Beer Retailer until a separate State Off-Premise Beer Retailer License has been obtained from the Utah Alcoholic Beverage Control Commission in accordance with Title 32B, Chapter 7, Part 4 of the Utah Code.

3. **Qualifications of Licensee:** A Lindon City Off-Premise Beer Retailer License may not be granted:
  - a. Unless the licensee is of good moral character, over 21 years of age, and lawfully present in the United States;
  - b. To anyone who has been convicted of a felony or misdemeanor involving moral turpitude; or
  - c. To any partnership, association, or corporation if any member, director, or officer, lacks the qualifications Set Forth in this Chapter.
4. **Written Disclosures:** An application for a Lindon City Off-Premise Beer Retailer License shall be accompanied by written disclosures and information verifying the qualifications of the licensee and shall include:
  - a. Proof of the applicant's identification and lawful presence in the United States;
  - b. A completed BCI background check;
    - i. To the extent permitted by state and/or federal law, all BCI background checks will remain confidential and protected as a private record not available for public inspection.
  - c. The City may consult any and all publicly available sources for information on the applicant including but not limited to databases for any outstanding warrants, protective orders, or civil judgments and may require additional disclosures as may be necessary to ensure the good moral character of any applicant.
  - d. Partnerships, associations, and corporations applying for an Alcohol-Related Business license shall provide the required written disclosures for each individual member, director, and officer.
  - e. A floor plan of the premises that outlines the location of each beer display;
  - f. A copy of the applicant's Responsible Alcohol Service Plan.
  - g. A map showing the proximity of the proposed Off-Premise Beer Retail location and Community Locations.
  - h. A signed consent form stating that the applicant will permit an authorized representative of Lindon City or any law enforcement officer to have unrestricted right to enter the licensed premises.
5. **Proximity to Community Locations:** No Lindon City Off-Premise Beer Retailer License may be issued if on the date the application is submitted there is a Community Location within 600 feet of the proposed retail location, as measured from the nearest entrance of the proposed retail location by following the shortest route of ordinary pedestrian travel to the property boundary of the Community Location, or within 300 feet of the proposed retail location, measured in a straight line from the nearest entrance of the proposed retail location to the nearest property boundary of the Community Location.
  - a. An Off-Premise Beer Retailer operating prior June 30, 2018, may continue to operate within proximity to the Community Locations as they existing at the time the original license was issued, provided that there has been no lapse in the use of the property as an Off-Premise Beer Retailer.
    - i. This right to continue operations as an Off-Premise Beer Retailer under previous proximity requirements shall not be terminated based on change in ownership of the Off-Premise Beer Retailer or ownership of the real property on which the Off-Premise Beer Retailer is located.
6. **Lindon City Off-Premise Beer Retailer License for a Brewery Manufacturing License:** The owner of a properly issued Brewery Manufacturing License may apply for and receive a Lindon City Off-Premise Beer Retailer License provided that the retail portion of such facility complies with the requirements of this Chapter and the owner follows and complies with the requirements of this Chapter and with the provisions of the Utah Alcoholic Beverage Control Act.
7. **License Fee:** All applicants for a Lindon City Off-Premise Beer Retailer License shall pay a license fee in the amount of \$300 or in the amount as may be amended by the Lindon City Council and set forth in the Lindon City Fee Schedule.
  - a. A Lindon City Off-Premise Business License must be renewed on an annual basis and an applicant shall pay a renewal fee as set forth in Section 5.08.070.
8. **Separate Locations:** A separate Lindon City Off-Premise Beer Retailer License shall be required for each place or location of Off-Premise Beer Retail sales.
9. **Separation of Beer from Nonalcoholic Beverages and Notice to Consumers:** All Beer sold by an Off-Premise Beer Retailer shall be displayed in an area that is visibly separate and distinct from locations in which nonalcoholic beverages are displayed and sold.
  - a. Display areas containing beer shall be labeled with a sign that is prominent and easily readable by a consumer and meets the requirements of the Off-Premise Beer Retailer Act found in Title 32B, Chapter 7 of the Utah State Code and informs the consumer that the beverages contain alcohol.

10. **Alcohol Training and Education:** All Off-Premise Beer Retailers shall ensure that all staff selling Beer, or supervising the sale of Beer, are properly trained pursuant to the requirements of the Alcohol Training and Education Act as set forth in Title 32B, Chapter 5, Part 4 of the Utah Code.
- a. An individual hired with the responsibility to sell Beer, or supervise the sale of Beer, for an Off-Premise Beer Retailer shall complete an alcohol training and education seminar within 30 days of the date on which they begin such employment if they do not have a valid record of previously completing such training.
  - b. Lindon City shall immediately suspend the license of an Off-Premise Beer Retailer that allows an individual to work as a supervisor or manager of the sale of Beer without having a valid record that the individual completed an alcohol training and education seminar.
11. **Staff Authorized to Sell Beer/Maintenance of Records**
- a. A minor may not sell Beer to consumers unless;
    - i. The minor is at least 16 years of age;
    - ii. Has been properly trained pursuant to the requirements of the Alcohol Training and Education Act; and
    - iii. Is directly supervised by a person 21 years of age or older who has been properly trained pursuant to the requirements of the Alcohol Training and Education Act.
  - b. All Off-Premise Beer Retailers shall identify and maintain identifying information of all staff who directly sell or supervise the sale of beer to patrons for consumption off the premises pursuant to the requirements of the Off-Premise Beer Retailer Act found in Title 32B, Chapter 7 of the Utah State and shall make such records available for immediate inspection by a peace officer or other City representative upon request.
  - c. Any Off-Premise Beer Retailer who is found to have failed to maintain the records as required by this Chapter and/or by the Utah Alcoholic Beverage Control Act shall be subject to a fine of up to \$250 for each employee for whom the records are not correctly maintained.
12. **Penalties Related to Sales to Minors:**
- a. In addition to any criminal penalty that might be imposed, Lindon City shall impose the following sanctions upon an Off-Premise Beer Retailer if an individual who, while on duty as staff of an Off-Premise Beer Retailer, is found in violation of the law involving the sale of an Alcoholic Product to a minor.
    - i. Upon the first violation, a written warning shall be issued against the Off-Premise Beer Retailer;
    - ii. Upon a second violation a civil fine of \$250 shall be imposed against the Off-Premise Beer Retailer;
    - iii. Upon a third violation an Off-Premise Beer Retailer shall pay a civil fine of \$500;
    - iv. Upon a fourth violation an Off-Premise Beer Retailer shall pay a civil fine of \$500, have Off-Premise Beer Retailer License suspended for 30 days and be placed on probation for one year;
    - v. Any violation occurring during the probationary period will result in immediate revocation of the Off-Premise Beer Retailer License for a period of at least six months and an additional civil fine of \$500;
    - vi. Any violation occurring after an Off-Premise Beer Retailer has had their license revoked for at least a six-month period will result in the permanent revocation of the Off-Premise Beer Retailer License; and
    - vii. Failure to pay the fines imposed pursuant to this Chapter within 30 days of the day on which the fine is imposed is grounds for suspension of the license until the payment is made.
  - b. In addition to any criminal penalty that might be imposed, an individual who, while on duty as staff of an Off-Premise Beer Retailer and after having completed an alcohol training and education seminar, is found in violation of the law involving the sale of an Alcoholic Product to a Minor is subject to the following administrative sanctions:
    - i. Upon a first violation the individual may not sell or directly supervise a sale of Beer to any customer until the individual retakes and completes an alcohol training education seminar;
    - ii. Upon a second violation an individual may not sell or directly supervise the sale of Beer for the longer of a period of 90 days or until the individual retakes and completes an alcohol training education seminar and completes any additional training that may be required by Lindon City;

- iii. Upon a third violation an individual may not sell or directly supervise the sale of Beer for a period of one year and must again complete the alcohol and training education seminar and any other additional training that Lindon City may require.
    - c. Any Off-Premise Beer Retailer found to be allowing an individual to sell or supervise the sale of Beer while being suspended pursuant to the provisions of this Chapter shall immediately have their Lindon City Off-Premise Beer Retailer License suspended.
    - d. Prior to imposing any sanction provided for under this Section, Lindon City shall hold an administrative hearing administered by the City Administrator, or a hearing officer appointed by the City Administrator, if requested by the Off-Premise Beer Retailer or the employee alleged to have violated the law regarding the sale of alcohol to a minor.
      - i. Upon a request for an administrative hearing, the City Administrator, or the appointed hearing officer, shall give notice of the hearing and provide an opportunity to be heard within 30 days of the request.
      - ii. The prescribed sanction may be imposed only if the City Administrator, or the appointed hearing officer, finds by a preponderance of the evidence that the violation occurred.
13. **Revocation of Lindon City Off-Premise Beer Retailer License:** All Lindon City Off-Premise Beer Retailer License holders shall comply with all applicable provisions of this Chapter, the Alcoholic Beverage Control Act found in Title 32B of the Utah Code, and the established regulations of the Utah Alcoholic Beverage Control Commission, including Alcohol Training and Education Seminars for employees.
- a. The City Recorder may suspend or revoke a Lindon City Off-Premise Beer Retailer License if:
    - i. At any time a license holder fails to comply with the provisions of this Chapter, the Alcoholic Beverage Control Act found in Title 32B of the Utah Code, or the established regulations of the Alcoholic Beverage Control Commission, including Alcohol Training and Education Seminars for employees;
    - ii. The State Off-Premise Beer Retailer License is revoked or denied by Alcoholic Beverage Control Commission;
    - iii. The applicant knowingly made a false statement of fact required to be revealed in the application for the license, or in any amendment or report to be made thereunder; or
    - iv. Continuance of the license would be inconsistent with public health, safety or general welfare of the residents of Lindon City.
  - b. Any person aggrieved by any decision of the City Administrator, or the appointed hearing officer, with respect to the revocation of a Lindon City Off-Premise Beer Retailer License based on a finding of non-compliance with this Chapter or with the Alcoholic Beverage Control Act, may appeal to the Lindon City Council by filing a notice of appeal with the City Recorder.
    - i. The appeal must be filed within 10 days of the City Administrator, or the appointed hearing officer, issuing the decision to revoke the Lindon City Off-Premise Beer Retailer License.
    - ii. Upon receipt of the written notice of appeal, a time and place for hearing such appeal shall be set within 30 days and notice shall be given to such person of the time and place of the hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at their last known address.
    - iii. The City Council shall have authority to determine all questions raised on such appeal.
  - c. The revocation of the corresponding State Issued Off-Premise Beer Retailer License by the Utah Alcoholic Beverage Control Commission shall be a per se reason for the revocation of a Lindon City Off-Premise Beer Retailer License for which there is no right of appeal.
  - d. In the event that there is a reinstatement of a State Issued Off-Premise Beer Retailer License the Off-Premise Beer Retailer must reapply for and secure a new Lindon City Off-Premise Beer Retailer License.
    - i. Lindon City shall consider and weigh all circumstances and conditions related to the suspension and reinstatement of the State Issued Off-Premise Beer Retailer License and may deny an application for a Lindon City Off-Premise Beer Retailer License if the City is not satisfied that the circumstances leading the original suspension have not be adequately addressed or remedied.

**5.08.040 Written Consent to Applications for State Issued Retail Alcohol License.**

With the exception of Off-Premise Beer Retailers, the licensing of Alcohol-Related Businesses is reserved to the Utah Alcoholic Beverage Control Commission. However, as part of the state licensing process, applicants seeking a State Issued Retail Alcohol License for a facility or event in Lindon City are required to obtain the written consent

of Lindon City for such license or permit. The process for issuing Lindon's City's written consent shall be as follows:

1. **Requirements to Issue Written Consent:** The City Recorder is authorized to issue Lindon City's written consent to an application for a State Issued Retail Alcohol License, upon finding that an applicant has satisfied the following requirements:
  - a. That the applicant meets the required qualifications of a licensee as set forth in Section 5.08.020(2) of this Chapter;
  - b. That the applicant has provided Lindon City with all written disclosures required in Section 5.08.020(4) of this Chapter.
  - c. That the location of the proposed Alcohol-Related Business meets the respective requirements for proximity to Community Locations as set forth in this Chapter and in the Utah Alcohol Control Act.
  - d. That the applicant has paid the Business License Fee set forth in Section 5.08.020(5) of this Chapter; and
  - e. That the applicant has not had any State Issued Retail Alcohol Licenses or a Lindon City Off-Premise Beer Retailer License revoked or suspended within the last six months.
2. **Issuance of Consent or Denial:** The City Recorder shall issue the written consent to a request for a State Issued Retail Alcohol License, or a written denial of such request if the City Recorder finds that any of the requirements set forth in this Subsection have not been satisfied, within 30 days of receiving the request for written consent.
3. **Appeal of a Denial to Issue Written Consent:** Any person aggrieved by any decision of the City Recorder clerk with respect to the denial of a request for written consent may appeal to the Lindon City Council by filing a written notice of appeal.
  - a. Any appeal must be filed within 10 days of the City Recorder issuing the written denial of the request for consent.
  - b. Upon receipt of the written notice of appeal, a time and place for hearing the appeal shall be set within 30 days and notice shall be given to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at their last known address.
  - c. The City Council shall have the authority to determine all questions raised on the appeal by a preponderance of the evidence.

**5.08.050 Employment of Minors by a Bar Establishment Licensee Prohibited.**

Pursuant to the authority granted by the § 32B-6-406 of Utah Code, no Bar Establishment Licensee shall employ any minor to work on the premises where an Alcohol Product is served.

**5.08.060 License--Transfer.**

All Licenses issued under this Chapter shall not be transferable and upon revocation thereof the fee paid by the licensee to the City for said license shall be forfeited to the City.

**5.08.070 License--Application fee--Expiration date.**

1. Applications provided for in this Chapter shall be accompanied by the fees established by this code and as may be modified by the City Council and set forth in the Lindon City Fee Schedule.
2. All Alcohol-Related Business licenses issued hereunder shall expire on the 31st day of December, unless canceled sooner, and must be renewed annually on or before January 1<sup>st</sup>.
  - a. A fee for the renewal of an Alcohol-Related Business License shall be paid in an amount established by the Lindon City Council and set forth in the Lindon City Fee Schedule.

**5.08.080 Inspection of licensed premises.**

All premises licensed under this chapter shall be subject to inspection by any officer, agent, or peace officer of the City or the Alcoholic Beverage Control Commission, or the State Board of Health, and every licensee shall, at the request of the City, State Board or Utah County Health Department, furnish to them samples of beer which the licensee shall have for sale.

**5.08.090 Violation--Penalty.**

In addition to any administrative penalties provided for in this Chapter, it is unlawful for any person to violate any provision of this Chapter. Unless otherwise provided herein, any person convicted of violating any provision of this Chapter shall be guilty of a Class B misdemeanor. Each day that any violation or failure to perform an act required under this Chapter continues shall constitute a separate offense.

**II. 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

## 12. Administrator's Report

(10 minutes)

### Misc Updates:

- July - City newsletter: <https://media.rainpos.com/442/july18final.pdf>
- July newsletter article: **Heath Bateman** - Article due to Kathy last week in June
- Officer Eric Whitehead has announced his retirement in August. Police Officer vacancy has been posted.
- Lindon Days: Grand Marshals – Lyle & Connie Lamoureux
  - Lindon Days schedule & info on city website: <http://www.lindoncity.org/lindon-days.htm>
- Misc. Items:

### Upcoming Meetings & Events:

- Movies in the Park: July 13<sup>th</sup>, August 7<sup>th</sup>
- Thursday, July 12<sup>th</sup> – Employee Summer party and dinner at Hollow Park @ 6:00pm
- Tuesday, July 24<sup>th</sup> – Offices closed for Pioneer Day
- August 6<sup>th</sup>-11<sup>th</sup> Lindon Days <http://www.lindoncity.org/lindon-days.htm>
- August 28<sup>th</sup> @ Noon at Public Works: Engineering Coordination Meeting w/Mayor, Van, Staff
- Monday, September 3<sup>rd</sup> – Offices closed for Labor Day
- September 12<sup>th</sup>-14<sup>th</sup> – Utah League of Cities & Towns, Fall Conference in SLC
- Monday, Sept. 17<sup>th</sup> @ 6:00pm – Citywide Emergency Drill
- November 6<sup>th</sup> – General Election

# Adjourn