

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: CZ#3366, Misc.#02005

DATE: June 18, 2002
Revised September 5, 2002

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items.

PROPOSAL:

Change of Zone #3366: Amendment to Zoning Ordinance
Adopt provisions to provide for Impact Fees

Misc #02005: Amendment to Subdivision Ordinance
Amend bike trail easement width from 14 to 20 feet
Clarify reference to Comprehensive Plan
Provide for dedication of park land

CONCLUSION: The proposed Impact Fee Ordinance and amendment to the subdivision ordinance is in conformance with the 2025 Comprehensive Plan and could help provide for growth and development of the community. The proposed system is one part of an overall strategy that could provide adequate resources to maintain existing infrastructure and protect property values in the community. Impact fees provide for uniformity and equity among property owners and like land uses.

RECOMMENDATION:	Approval of Ordinance as Revised
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LEGAL DESCRIPTION:

Zoning Code – amend to add the following sections to provide for :

- 27.82.010 a title, authority and applicability;
- 27.82.020 legislative findings and purpose; 27.82.030 to provide intent;
- 27.82.040 definitions;
- 27.82.050 imposition of impact fees;
- 27.82.060 exemptions from impact fees;
- 27.82.070 creation of an impact fee fund and impact fee accounts;
- 27.82.080 refunds of impact fees paid;
- 27.82.090 Post-Ordinance developer agreements regarding impact fee facilities;
- 27.82.100 Pre-Ordinance developer reimbursement for participation in financing or constructing impact fee facilities;
- 27.82.110 miscellaneous provisions.

Land Subdivision Ordinance – to amend the following sections:

26.23.040 (Table 26.23.040) to modify the reference to the Comprehensive Plan and to increase the minimum right-of-way width for bikeways from a 14-foot easement to a 20-foot easement;

Section 26.23.160 to require a dedication of land or payment of an impact fee for neighborhood parks and trails; and to repeal Sections 26.23.040 and 26.23.160.

APPLICANT:

The Directors of Parks & Recreation, Planning, and Public Works & Utilities Departments

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SUMMARY:

After two years of public process and consideration of alternatives, several measures to improve the equity, predictability and amount of revenue for the financing of capital infrastructure costs are being forwarded. Impact fees are one part of the overall approach. The City's Infrastructure Financing Strategy provides a balance between costs fairly associated with new development being paid by new development, with some of these costs still being subsidized by the public as a whole through utility fees and taxes.

Under the current system the community as a whole is financing as much as 85 to 90% of the infrastructure costs to provide for new development. As the community grows, there are additional utilities, roads, trails and parks to build while also maintaining an aging infrastructure to serve existing neighborhoods. The goals of Comprehensive Plan encourage new development and project a 1.5 % growth rate coupled with a significant expansion in the City's land area over the next 25 years.

However, there is a significant gap between the costs associated with this growth and the amount of funds brought in under the current funding system. A shortage of nearly \$290 million is anticipated, if the current practice of paying for improvements is continued.

If the current system continues, there will not be adequate resources to provide for maintenance and new infrastructure to encourage development. Also, the present practice

of negotiating improvements on a case by case basis does not provide predictable costs and as is viewed by some as inequitable.

The proposed impact fee is to be paid at time of building permit. Any fees paid by a builder are ultimately paid by the property owner. Impact fees collected for arterial streets, water, wastewater and parks/trails are deposited in a separate account. These funds could then be used only for new construction. For example, water impact fees can only be used for new water improvements, such as major water lines, reservoirs, pumping stations and water treatment.

For arterial streets and parks/trails it is proposed that the city be divided into four **benefit areas**. Each benefit area would have a separate account and fees collected in the benefit area could only be used for new construction in that area. A single city wide benefit area is proposed for water and sewer impact fees. Impact fees would have to be spent within a 10 year time period. Impact fee accounts would be audited annually as well.

Impact fees are paid only collected on new construction. The fee would only be collected for an entirely new dwelling, not for additions to or remodeling of existing homes. Likewise, new houses that are replacing a previously existing dwelling, there would be no fee. For businesses, it would apply to any additions, expansions and new buildings, with a credit for the floor area of a previous business being replaced.

HISTORY: Summary of public process

2000

- | | |
|-----------|---|
| June 20 | Press Conference on hiring of Duncan Associates and beginning of Infrastructure Financing Study (IFS) process |
| July | City Council, County Board and Mayor appoint members to IFS Advisory Committee (IFSAC) |
| August 15 | First IFSAC meeting |
| August 31 | First Public Presentation: Review All Financing Alternatives (presentation taped and run on 5 City TV) |
| Sept. | IFSAC meetings, FINANCIAL ALTERNATIVES and CAPITAL COST OF GROWTH reports released |
| Oct 11 | IFSAC meetings and briefings for groups including Mayor's Neighborhood Roundtable and Home Builders Association of Lincoln (HBAL) |
| Oct. 19 | IFSAC Public Forum at Council Chambers |

- Nov. IFSAC meetings and briefings of groups including Lincoln Independent Business Association (LIBA). FISCAL IMPACT ANALYSIS report released
- Nov. 16 IFSAC public forum at Gere Library
- Dec. IFSAC meetings and briefings of City Council and Mayor's Neighborhood Roundtable briefing

2001

- Jan 8. Final IFSAC meeting and Final Report completed
- Feb. Lincoln Journal Star article on IFS proposal and City Council briefing
- Sept. 26 Discussion with Lincoln Chamber of Commerce (LCC) Infrastructure subcommittee
- Oct. Briefings and discussion at meetings of Mayor's Neighborhood Roundtable, HBAL, Lincoln Chamber of Commerce(LCC), LIBA, Realtors Association of Lincoln (RAL)
- Nov. Joint meeting with HBAL, LCC, LIBA & RAL
- Dec. Joint Meeting with HBAL, LCC, LIBA & RAL

2002

- Feb -Mar. Additional discussion with members of organizations
- Mar. 19 Public Forum at Lux Middle School (presentation taped on replayed on 5 City TV)
- Mar. 19 Revised Capital Cost of Construction report (IMPACTFEE STUDY) released
- April-May Discussion with representatives from neighborhood organizations, HBAL, LCC, LIBA & RAL, Lincoln Housing Authority, Habitat for Humanity and Housing Resources Inc., Downtown Lincoln Association
- May 28 Adoption of 2025 Comprehensive Plan by City Council and County Board with new section on Financial Resources
- June - Aug. Numerous meetings held with various neighborhood, civic, housing, and business organizations to discuss options and potential changes in the proposal.

August 22 Fair Share Alliance held a public forum at Auld Recreation Center

August 26 City Council briefing and distribution of revised ordinance, overall financing strategy and first release of proposed impact fee schedule

Letters in support of impact fees and the overall Infrastructure Financing Strategy have been received from the Meadowlane Area Residents Association, the Arnold Heights Neighborhood Association, Clinton Neighborhood, East Campus Community Organization, Hartley Neighborhood, Hawley Area Neighborhood, Landons Neighborhood, Near South Neighborhood, North Bottoms Neighborhood, the University Place Community Organization and others.

COMPREHENSIVE PLAN SPECIFICATIONS:

These proposals are in conformance with the new 2025 Comprehensive Plan. Selected pertinent sections from the Plan include:

The pertinent principles in regards to impact fees include:

“Guiding Principles

In order to meet the goals of financing new improvements and maintaining the built environment, the following principles are identified:

Overall Guiding Principles

There needs to be a balance between new infrastructure in developing areas and the improvements and maintenance needs of the existing community. Funding for infrastructure improvements should not focus all of the funds into developing areas, leaving inadequate resources to address needs in other areas. The City and County need to adequately fund infrastructure maintenance and improvements in existing towns and neighborhoods.

The City and the County will work cooperatively in as many areas possible in order to provide services in the most efficient manner possible.” (Page F 159)

“Guiding Principles for Financing Urban Infrastructure

A Balanced Approach: The community at large should provide more financing of maintenance and improvements in existing areas. Both new and existing development should pay its fair share of improvement costs due to growth and maintenance. In general, improvements which are of general benefit to the whole community should be paid by the community while improvements which are of special benefit to a specific area should be paid by that area.

Develop a Fair & Predictable System: Distribute infrastructure costs fairly among all property owners who benefit from the improvements. The goal of the financing system is that costs should be known in advance of development.

Conformance with Comprehensive Plan: Infrastructure improvements should continue to be developed only in areas identified for development in the Lincoln/Lancaster County Comprehensive Plan. One of the most important tools in financing is adherence to the physical plan for the community. Following the Plan for development and systematic improvements throughout Lincoln increases efficiency in construction and maximizes the community's investment.

Conformance with Capital Improvement Program (CIP): The CIP should be utilized to provide a systematic and predictable forum for determining the timing of infrastructure improvements.

Greater Development Efficiency: Maximize the community's investment in infrastructure through greater efficiency in residential and commercial development. Particularly in new development, an increase in the amount of commercial floor area and residential population, compared to typical suburban patterns, will decrease the amount of infrastructure necessary overall in the community.

Use an Appropriate Financing Method for Each Infrastructure Need: One method of financing may not be appropriate for all types of infrastructure needs.

Minimize Impact on Affordable Housing: Infrastructure financing should not increase the cost of affordable housing in Lincoln and the City should encourage retention of affordable new housing in existing neighborhoods.

Minimize Impact on Those Who Are Not Developing Land: As much as possible, property owners should only be assessed or pay the improvement costs at the time they seek approval of development proposals or building permits. Financing mechanism should not impact property owners in an area under development who don't want to develop their land at that time. The community should grow in an orderly compact fashion and therefore infrastructure improvements should be made in a timely manner. Property owners need to be educated about the growth and infrastructure plans to reduce the elements of surprise and anger and to foster more informed personal planning decisions.

Increase the Amount of Revenue: Property owners should participate in funding improvements in new areas at generally the same rate. Today, some new developments pay a lot for improvements while others sometimes pay nothing. In the future, all new developments should pay at generally the same level.

Build More Improvements Sooner: The City should attempt to build more road, water and wastewater improvements each year, without an adverse impact on property taxes. Accelerating improvements will require millions of more dollars and should only be done if new financial resources and alternative financing techniques have been implemented.

The goal is to find the means in order build 25 years worth of improvements over a 20 year period in order to ensure the well-timed delivery of urban infrastructure. The Plan Realization section further describes the mechanisms that will link urban infrastructure programming to local market and growth conditions. It is important that there be adequate funds for the maintenance of infrastructure in the existing urban area as future growth occurs.

Concurrent Improvements: Infrastructure improvements should be made concurrent with development. Except in limited cases, such improvements should not be made in advance of development proposals in an area. There should be adequate infrastructure in place every year to accommodate housing and employment demands.

Timing: As projects are requested for faster implementation by a developer than are identified in the City's Capital Improvement Plan and the County 1 and 6 Program, the developer must be prepared to make financial contributions to improvements necessitated by a project if their project is moved to an earlier date.

Encourage Efficiency: There should be further cooperation between the public and private sector and long range planning efforts to save on the City's development costs that could be used for infrastructure improvements." (Pages F 160 -161)

The strategies section then lists the different suggested mechanisms to meeting these principles. Impact fees is specifically stated in the following (connection fees referenced below are same as impact fees):

"Water & Wastewater

The Community should establish a balanced system of financing improvements that uses both connection fees paid by new construction and utility fees paid by rate payers throughout the city.

Establish a connection fee in newly developing areas, to be paid at time of building permit, to recover a portion of the capital costs to build trunk sewer lines and water mains. The fee should not significantly impact housing costs and could be less regressive if smaller lots paid less for the water connection fee. The connection fee should be paid by residential, commercial, industrial and public/semi-public uses." (Page F 161-162)

“Arterial Streets

The Community should establish a balanced system of financing improvements that uses both impact fees paid by new construction, wheel taxes paid by rate payers throughout the city and state and federal funds.

Establish an impact fee at time of building permit for road improvement costs in developing areas. Fees should not be at full capital recovery cost for residential uses. Large traffic generators, like commercial and industrial businesses, will pay a majority of the costs due to their traffic impact. Some mechanism should be employed so that the road impact fee does not impact affordable housing.” (Page F 162)

“Parks and Trails

The Community should establish a balanced system of financing improvements that uses both impact fees and land dedication paid by new construction with general revenue taxes paid by the community as a whole.

Establish a mandatory park land and trail dedication requirement for residential plats. Establish a park and trail impact fee that can be paid in-lieu of land dedication.” (Page F 162)

ANALYSIS:

The City with Duncan Associates has completed a study of the capital costs of providing water, wastewater, arterial streets and neighborhood parks and trails for new development. This study looked at the improvements needed and what infrastructure capacity was needed by new development. For example, the study identified how much water treatment capacity was needed per new dwelling unit or business. For arterial streets, it identified the number of new automobile trips generated by different land uses. Table 1 lists the capital cost for new construction based on the updated Impact Fee Study.

Table 1
Capital Cost of Construction – Updated June 1, 2002

Facility	Arterial Streets	Water	Waste-water	Parks & Trails	Total
Single Family Dwelling Unit	\$3,235	\$3,669	\$1,815	\$321	\$9,040
Multi-Family Per Dwelling Unit	\$1,964	\$611	\$302	\$190	\$3,068
Retail Store 10,000 square feet	\$40,770	\$3,910	\$1,940	n/a	\$46,620

Office Building 10,000 square feet	\$47,690	\$3,910	\$1,940	n/a	\$53,540
Industrial Use 10,000 square feet	\$29,170	\$3,910	\$1,940	n/a	\$35,020

Note: see June 1, 2002 draft Impact Fee Study for details. Multi-family assumes 6" meter for 200 unit apartment complex; nonresidential assumes 3" meter for a 100,000 sq. ft. building.

The first calculation of the capital costs of construction was concluded in September 2000. These costs were then reviewed and revised to create the draft Impact Fee Study in March 2002. Both of these studies were reviewed by engineers and others in private sector. While suggested changes improved the analysis, they did not change the findings that the typical single family home requires a net cost of approximately \$9,000 in order to provide water, wastewater, arterial streets and neighborhood parks/ trails.

Some have suggested that the costs calculations are too high because they include the costs to provide water and wastewater treatment, water storage, water pumps and the water transmission main from Ashland. While these costs have traditionally been paid for by the community as whole, they are none the less part of the capital cost providing for a new single family home. If the community were not expanding, then additional treatment, storage, pumps and transmission lines would not be necessary.

For arterial streets, some have suggested the costs set a new standard since they include median landscaping, dual turn lanes and traffic signals. Many new arterial streets include median landscaping (S. 40th and 70th Street as an example) dual left turn lanes (27th & Pine Lake Road or 27th & Superior) or additional traffic signals (numerous locations along 84th Street or Pine Lake Road.) The City also estimates that about one in four new miles of arterial streets will include a bike lane, such as is found along portions of 70th Street, 84th Street and Pine Lake Road.

The impact fee ordinance includes a new **arterial street impact fee** which would be paid by new construction at time of building permit. The fee would vary based on the number of automobile trips a use generated. Thus, a new 10,000 square feet retail or office building would pay a significantly higher fee than a single family house. Impact fees can only be used for new construction -- they could not be used for maintenance. In new areas, developers could wait for the city to build arterial street improvements through the capital improvement process or improve the arterial street themselves and receive reimbursement from impact fees paid ~~a credit against the arterial street impact fees to be paid within their development~~ for the value of their improvement. The revised proposed ordinance changes the system of credits to direct reimbursement of the developer. This simplifies the process for realtors and builders in that they will not have to keep track of which lots have a credit and how much is the credit.

Water and wastewater impact fees would be paid at time of building permit by any new construction. The amount of the fee would depend on the size of the water meter. The greater the impact on the water and wastewater system, the larger the fee. Thus larger water users who require larger meters would pay more. Increases in meter size needed due to a fire sprinkler system would not increase the fee. The fee is based on the water meter capacity needed for typical daily use.

Impact fees would not apply to residential remodels or additions, since they don't increase the demand on the system and typically don't increase the size of the water meter. However, any change in meter size due to a lawn irrigation system would not be exempt from the fee.

A water and wastewater impact fee is a more equitable and predictable way to determine the appropriate amount that new development should contribute to improvement costs. It ensures that all property being developed contributes equally per dwelling unit or per square feet of commercial/industrial use.

The water and wastewater impact fees if phased in over a period of years would only cover a portion of the total capital costs. The remaining costs would be paid through utility rates by the citizens as a whole.

A Neighborhood Park and Trail Impact Fee in the zoning ordinance and a new mandatory **park land dedication** in the subdivision ordinance are proposed. In addition, the proposed changes to the subdivision ordinance would correct the trail easement width from 14 to 20 feet and clarify the reference to the Comprehensive Plan for right-of-way dedication. The neighborhood park and trail impact fee would be used for park improvements, trail paving or acquisition of land where the mandatory park land dedication did not provide for adequate space. Residents of Lincoln would continue to develop larger size parks and recreational facilities through general obligation bonds and other funds.

Other Alternatives: Beginning in the summer of 2000, many different alternatives were reviewed. The alternative most often suggested is to use some type of special assessment district. Assessment Districts typically rely on the city making the improvement, then assessing adjacent property owners over a 15 to 20 year period their share of the cost plus interest. This tool could be used in some circumstances to make a local road or utility improvements in which there is multiple property owners. However, assessment districts are not suitable for large areas and significant improvements for the following reasons:

- a. State statutes prohibits their use outside of the city limits, thus they are of minimal use in developing areas. It is not advantageous to the property owners nor the City to annex vast areas for purposes of assessment.

- b. Assessment districts are not predictable, they rely on approval of the City Council and may be opposed by property owners in the area.
 - c. District funding relies on the city to have significant funds on hand to be able to finance the improvements in advance of repayment over 15 to 20 years.
- ~~Collection of assessments is less certain and may be limited if property owners default on paying assessments. Failure to pay an assessment becomes a lien which may not be able to be collected until the property is sold.~~
- d. Assessments could be levied against those not needing or requesting improvements such as churches or acreage owners who may already be served by suitable well and septic service. The Comprehensive Plan states **“Minimize Impact on Those Who Are Not Developing Land.”**

Another alternative for water and wastewater is to collect a fee of \$500 or some amount per water connection. However, a “flat” fee approach treats a single family use the same as a high water intensive use, such as some industrial uses.

~~The final details of the impact fee schedule and the overall infrastructure financing strategy are still under discussion and have not yet been concluded. Fee schedules and utility rates are items directly forwarded to the City Council for review and action.~~

~~Several groups have suggested adjustments to the impact fee ordinance. If the base ordinance is adopted by the City Council, then the Council could request additional enhancements to the ordinance be developed and forwarded for consideration. Some suggested changes include:~~

- ~~a) Reduce fees or remove redevelopment areas, such as Antelope Valley,~~
- ~~b) To reduce costs to low income housing,~~
- ~~c) Provisions to encourage mixed use developments, and~~
- ~~d) Downtown trip reduction due to mix of uses and pedestrian character.~~

As a result of discussion with many different groups over the past several months, the impact fee ordinance has been revised to include:

1. Providing for “category exemption” for Annexation Agreements approved prior to June 2002. Property within prior “annexation agreements” will be exempt from impact fees in each category that they contributed to these improvements. For example, if a developer agreed to contribute to some of the water and arterial street costs in an annexation agreements, then the property covered by that agreement would be exempt from water and arterial street impact fees. These annexation agreements contain approximately 8,000 unbuilt dwelling units and over 10 million square feet of unbuilt commercial and

industrial space. This represents an significant portion of the new construction for the next 5 to 10 years. Thus, this will significantly reduce any economic impact since fewer properties will be paying the full fee.

2. Impact Fees will begin **at \$2,500** per single family house and will be **phased in over five years to \$4,500**, with annual inflation for construction costs added. The fee schedule is substantially below the actual capital costs of these improvements. In addition, **implementation of impact fees would be delayed until June 1, 2003.**
3. A **Downtown/ Antelope Valley Arterial Street Exclusion** area for consideration. The Impact Fee Study was recalculated to determine the arterial street fee, excluding all the traffic capacity and land use in a specific area, generally 8th to 28th Street, from G Street to State Fair grounds and Salt Creek. The Comprehensive Plan encourages redevelopment and investment in the Downtown and Antelope Valley area. Excluding this area from paying arterial street impact fees would aid in attaining these goals. However, this also means that arterial street impact fees paid outside of this area could not be used for any street improvements inside the Downtown/ Antelope Valley area.

This proposal was added to the ordinance for the consideration of the community and groups interested in the Downtown and Antelope Valley. At this time, specific comments from interested groups or the community on this aspect have not yet been received.

4. A **redevelopment “credit bank”** for use in redevelopment areas. This change would allow for properties purchased by the city for demolition due to future road expansion or channel development, that the credit for the existing buildings be retained by the City for use within that same redevelopment area. For example, if a 10,000 square foot commercial building in the Antelope Valley area was purchased for demolition to make way for a new channel and park land, the City could use this commercial space as credit to reduce the impact fees of a new commercial building as part of a redevelopment agreement. This “bank” of credits would aid in the goals of the Comprehensive Plan of encouraging redevelopment.
5. Impact fees for rental and owner occupied **low income housing** for persons below 60% of median income would be exempted. Impact fees for new construction for dwellings with income between 60 and 80% would be reduced by half.

CONCLUSION:

The proposed impact fee ordinance and changes to the subdivision ordinance are in conformance with the Comprehensive Plan and could help provide for growth and development of the community. The proposed system is also one part of an overall strategy that could provide adequate resources to maintain existing infrastructure and protect property values in the community. Impact fees provide for uniformity and equity among property owners and like land uses. The impact fee system would take effort and adjustment to transition to the new system, but it would establish a better financing system.

Impact fees are an important part of the overall financing strategy. Without impact fees, the current system of negotiations, which is viewed as unpredictable and inequitable, would continue. Impact fees are part of an overall strategy which could increase revenue for improvements, with the increase in funds coming both from new development and the community as a whole.

Without impact fees, the community has few viable or desirable choices. One option would be to significantly raise wheel taxes and utility rates in order to provide for the adequate resources. However, this would place the vast majority of the burden on the community as a whole, which is not in keeping with the goals of the Comprehensive Plan to have a balanced approach. Another option is to do nothing, which would continue the current system and would ultimately provide inadequate resources for maintenance and new development — a future the community does not desire.

Impact fees would distribute costs among new developments in more fair, uniform and predictable manner than the current system. These costs would be balanced by increased costs for the community as a whole through some increases in utility rates. This new financing tool can help the community achieve growth goals while ensuring that the cost of growth is paid for in a fair and equitable manner.

Prepared by:

Stephen Henrichsen, AICP
Principal Planner

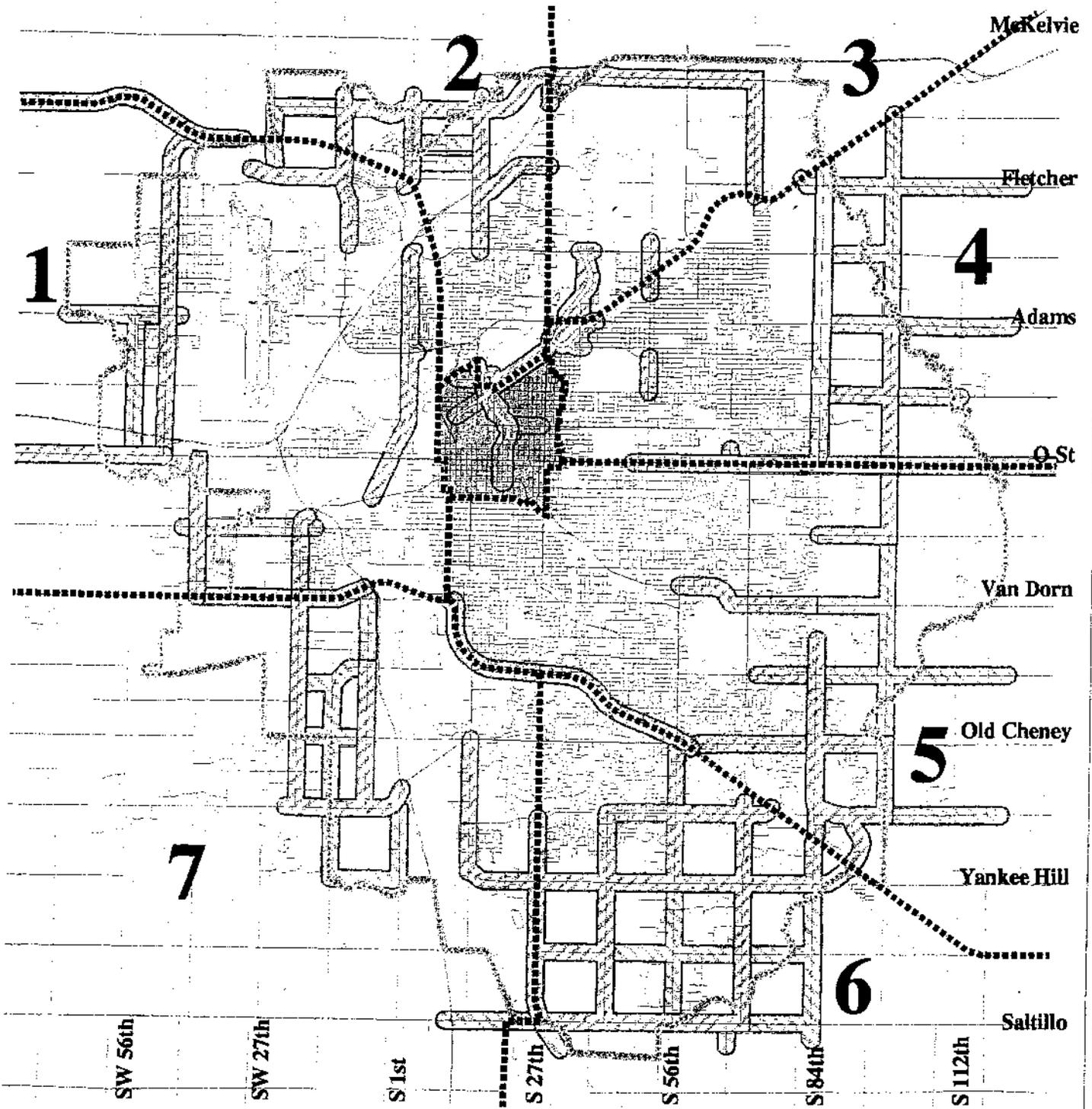
Impact Fee Ordinance
Summary of Proposed Amendments
Substitute Ordinance October 8, 2002

As a result of the September 18th public hearing and other suggested changes, the City has prepared and is forwarding a revised ordinance with the following changes for action by the Planning Commission on October 16th.

Proposed Amendment

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| 1. Amendment to divide into Seven Arterial Street Benefit Areas (27.82.070 "Impact Fee Funds") | Suggested by Kent Seacrest on behalf of Southview Inc., Ridge Development Co., Eiger Development, Don Linscott, and NEBCO Inc. and by the Realtors Association of Lincoln and others that there be more benefit areas |
| 2. Divide Water Impact Fee into two parts: Water System Fee and Water Distribution Fee. Amendment also includes a minor change to clarify that wastewater impact fees could be used to build improvements outside the city limits, which is sometimes necessary due to topography (27.82.070) | Suggested by Kent Seacrest, Realtors Association of Lincoln and others that there be more benefit areas |
| 3. Amendment to divide Water Distribution Fee into Seven Water Distribution Benefit Areas (27.82.070) | Suggested by Kent Seacrest, Realtors Association of Lincoln and others that there be more benefit areas |
| 4. Amendment to divide Neighborhood Park & Trail Impact Fee to Seven Neighborhood Park and Trail Benefit Areas (27.82.070) | Based on suggestion by Kent Seacrest, Realtors Association of Lincoln and others that there be more benefit areas |
| 5. Amend Neighborhood Park & Trail fee map to exclude existing neighborhoods with sufficient parks & trails so that fee is not collected in these areas (27.82.070) | Based on suggestion by Kent Seacrest |
| 6. Change time period for City to use impact fee funds before refund from 10 to 8 years and give up to 6 months for application of refund (27.82.080 "Refunds of Impact Fees Paid") | Suggested by Kent Seacrest |
| 7. Change to allow other funds, such as wheel tax, utility rates, to repay developer who makes eligible improvements. (27.82.090 "Post Ordinance Developer Agreements") | Suggested by Kent Seacrest |
| 8. Change 'Discretion to Reduce Impact Fees' in order to "promote economic development of the City or the public, health, safety and general welfare" to action by Mayor based on criteria set by City Council. (27.82.110 "Miscellaneous Provisions") | Based on suggestion by Kent Seacrest |

ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP

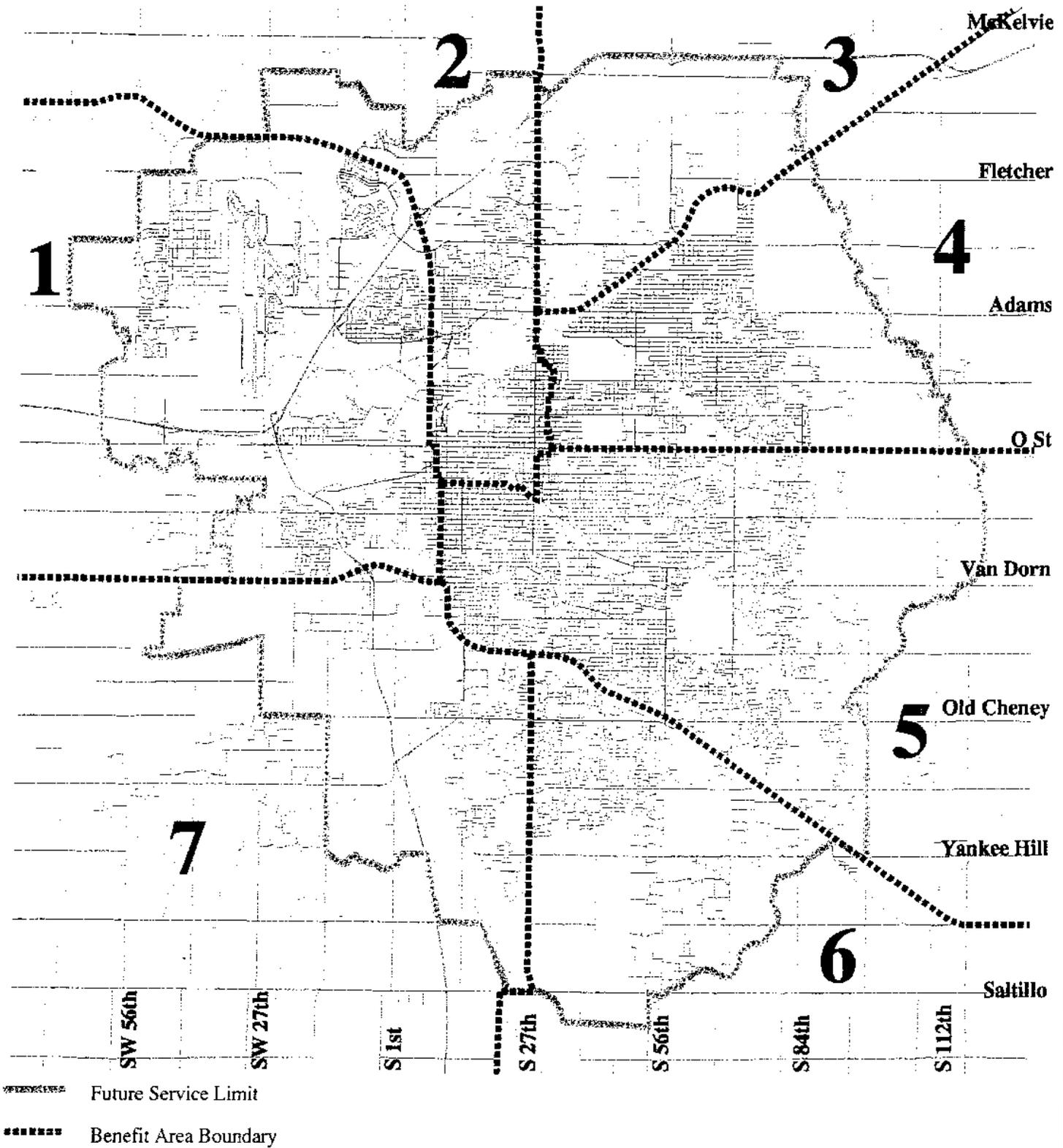


-  Future Service Limit
-  Benefit Area Boundary
-  Downtown/Antelope Valley Impact Fee Exclusion Area
-  2 Lanes + Center Turn Lane
-  4 Lanes + Center Turn Lane
-  6 Lanes + Center Turn Lane



SCALE:
1 In = 11,500 Ft

WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP

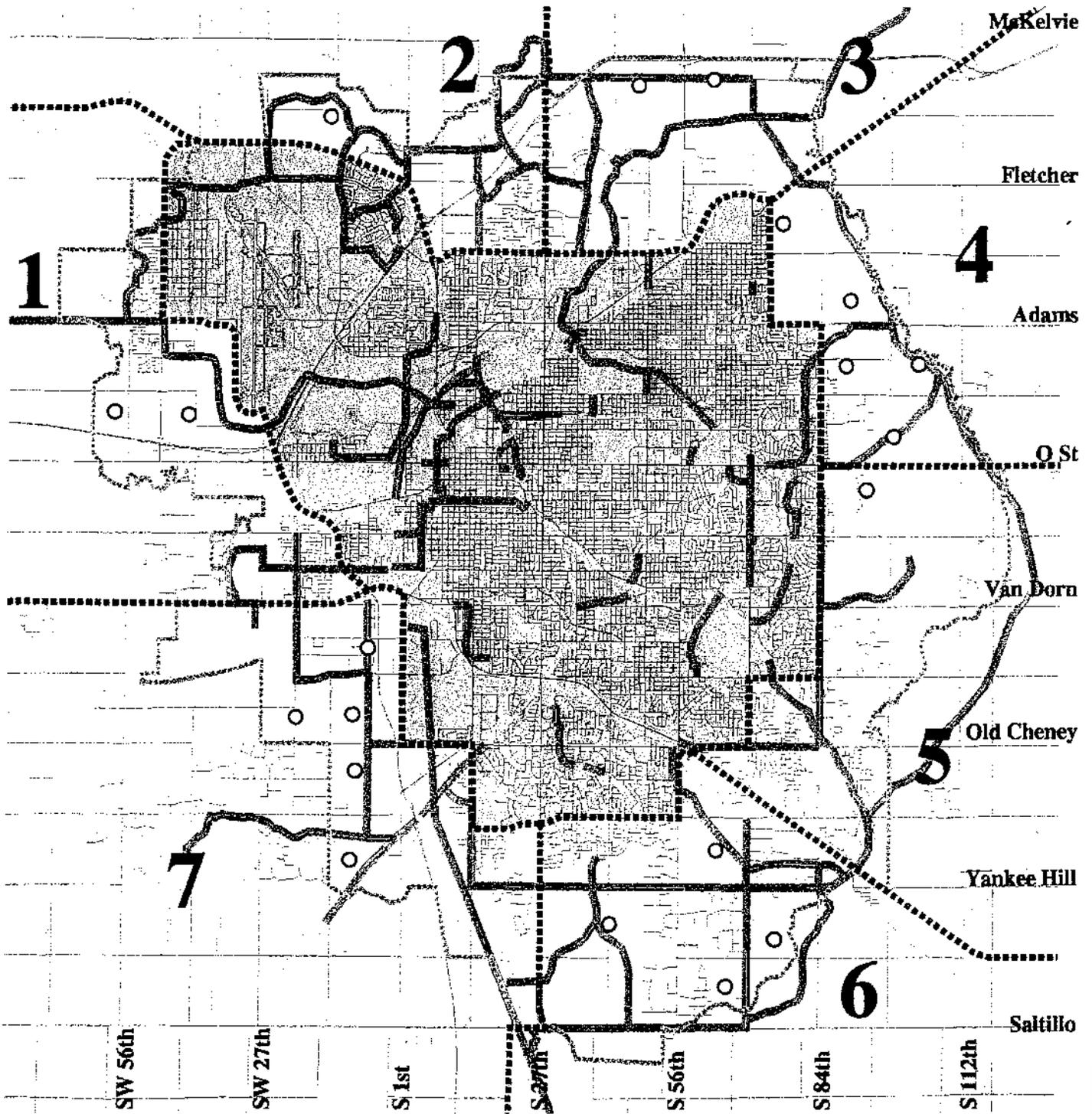


----- Future Service Limit
..... Benefit Area Boundary

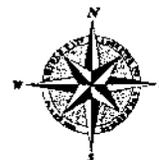


SCALE:
1 In = 11,500 Ft

NEIGHBORHOOD PARK & TRAIL IMPACT FEE BENEFIT AREAS MAP

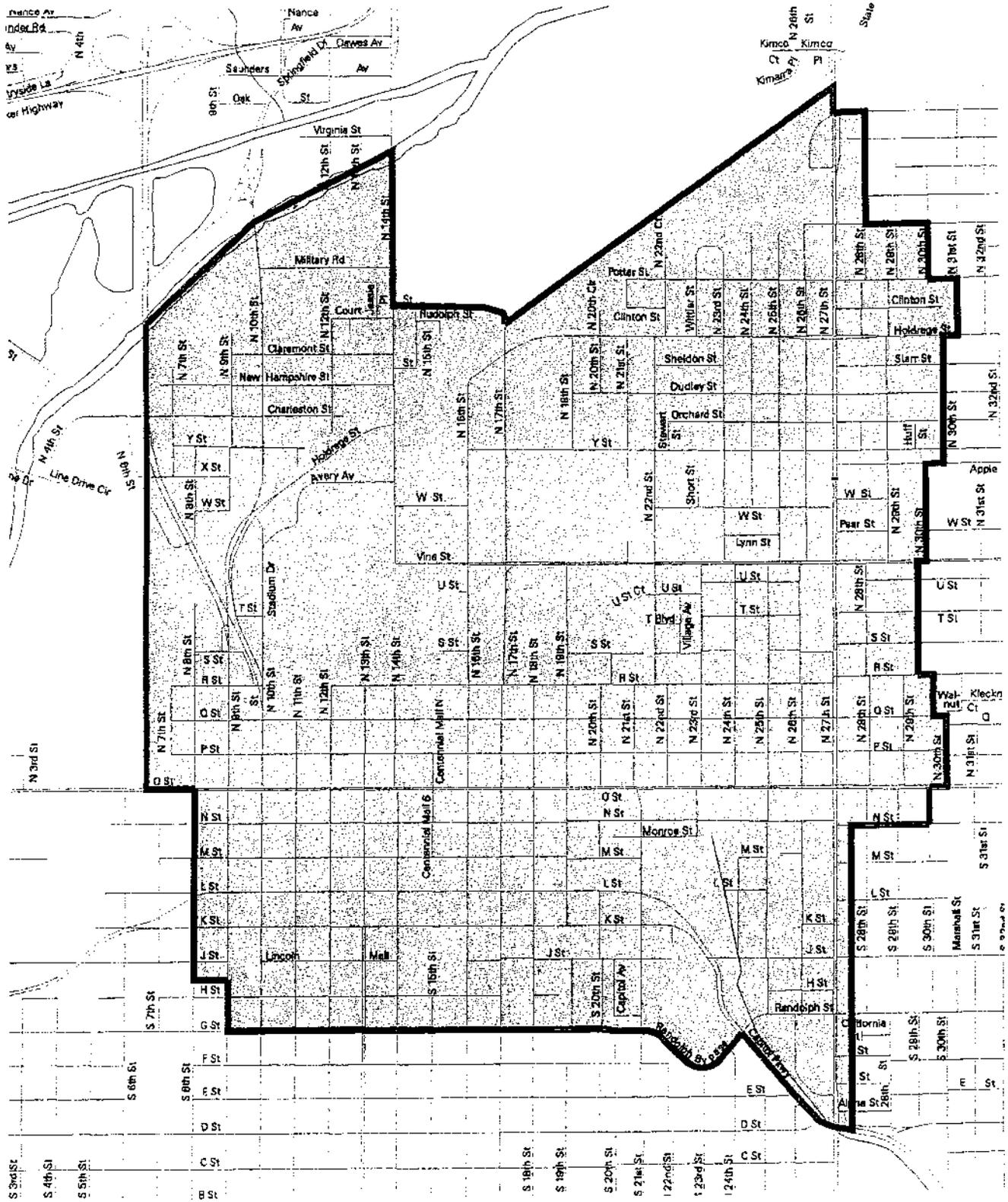


-  Future Service Limit
-  Benefit Area Boundary
-  Existing Neighborhood Park & Trail Impact Fee Exclusion Area
-  Future Trail
-  Future Neighborhood Park



SCALE:
1 In = 11,500 Ft

DOWNTOWN / ANTELOPE VALLEY ARTERIAL STREET FEE EXCLUSION AREA MAP



October 8, 2002

02-

Introduce:

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 27 of the Lincoln Municipal Code relating to
2 zoning by adding a new section numbered 27.82.010 to provide a title, authority and
3 applicability; adding a new section numbered 27.82.020 to provide legislative findings and
4 purpose; adding a new section numbered 27.82.030 to provide intent; adding a new section
5 numbered 27.82.040 to provide definitions; adding a new section numbered 27.82.050 to
6 provide for imposition of impact fees; adding a new section numbered 27.82.060 to provide
7 exemptions from impact fees; adding a new section numbered 27.82.070 to provide for the
8 creation of an impact fee fund and impact fee accounts; adding a new section numbered
9 27.82.080 to provide for refunds of impact fees paid; adding a new section numbered
10 27.82.090 to provide for post-ordinance developer agreements regarding Impact Fee Facilities;
11 adding a new section numbered 27.82.100 to provide for developer reimbursement for
12 participation in financing or constructing Impact Fee Facilities; adding a new section
13 numbered 27.82.110 to provide for miscellaneous provisions.

14 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

15 Section 1. That Title 27 of the Lincoln Municipal Code be amended by adding
16 a new section numbered 27.82.010 to read as follows:

17 **27.82.010 Short Title, Authority and Applicability.**

18 (a) This ordinance may be known and cited as the "Impact Fee Ordinance," and is
19 referred to herein as "this ordinance."

1 (b) This ordinance is enacted pursuant to the authority granted to the City by the
2 Constitution of the State of Nebraska, the Nebraska revised statutes, and the City's home rule
3 charter.

4 (c) The provisions of this ordinance shall apply to all of the territory within the
5 corporate limits of the City.

6 Section 2. That Title 27 of the Lincoln Municipal Code be amended by adding
7 a new section numbered 27.82.020 to read as follows:

8 **27.82.020. Legislative Findings and Purpose.**

9 The City Council of Lincoln, Nebraska finds that:

10 (a) Both population and employment within the City are growing, and are creating
11 demands for new residential and nonresidential development.

12 (b) New development within the City is creating additional demand and need for
13 public facilities, including water and wastewater systems, arterial streets, and neighborhood
14 parks and trails. The Comprehensive Plan's land use assumptions indicate that new
15 development will continue and will place ever increasing demands on the City to provide
16 such facilities.

17 (c) The protection of the health, safety, and general welfare of the citizens of the
18 City requires that the public facilities of the City be expanded to meet the demand of new
19 development for public facilities.

20 (d) Under the City's current laws, taxes, fees, utility charges, and other forms of
21 revenue generated from new development do not generate sufficient funds to provide those
22 public facilities required to serve the new development.

1 (e) It is only proper that those property owners who benefit by the expansion of
2 public facilities for new development should bear their proportionate share of the cost of that
3 expansion.

4 (f) The creation of an equitable impact fee system would enable the City to impose
5 a more proportionate share of the costs of required improvements to the water and wastewater
6 systems, arterial streets, and neighborhood parks and trails on those developments that create
7 the need for them.

8 (g) All types of development that are not explicitly exempted from the provisions
9 of this ordinance will generate demand for the types of facilities for which impact fees are
10 being imposed pursuant to this ordinance.

11 (h) The Impact Fee Study prepared by Duncan Associates dated June 2002 sets forth
12 reasonable methodologies and analyses for determining the impacts of various types of
13 development on the City's public facilities, and for determining the cost of acquiring land and
14 the cost of acquiring or constructing facilities and equipment necessary to serve new
15 development.

16 (i) The assumptions and service standards referenced in the Impact Fee Study are
17 those used by the City in evaluating the need to expand or construct public facilities.

18 (j) The impact fees described in this ordinance are based on the Impact Fee Study,
19 and do not exceed the costs of acquiring additional land and the costs of acquiring or
20 constructing additional facilities or equipment required to serve the new developments that
21 will pay the fees.

1 (k) The types of improvements to each type of public facility considered in the
2 Impact Fee Study will benefit all new development in the City, and it is therefore appropriate
3 to treat the entire City as a single service area for purposes of calculating the impact fees for
4 each types of facility. However, the service area may be divided into multiple benefit areas
5 in order to show a greater link between fees paid and benefit received.

6 (l) It is in the public interest and consistent with the Comprehensive Plan and other
7 public policies of the City to promote the construction and preservation of Low Income
8 Housing and therefore impact fees should be waived in whole or part for such development.

9 (m) The City recognizes that new development in certain areas of the City was
10 previously approved and regulated on a case-by-case basis by agreements between the City
11 and the developer wherein the City and the developer made individualized determinations
12 of the projected impact full development and operation of the property would have on the
13 City's arterial streets, water or wastewater facilities, and neighborhood parks and trails and
14 agreed upon the necessary improvements to be paid for and/or constructed by the developer
15 as said developer's proportionate share of the cost of providing public facilities for the
16 proposed development. Therefore, the City finds that impact fees should be categorically
17 waived for those specific types of impact fee facility improvements which were paid for or
18 constructed by such developers under said agreements.

19 (n) There is both a rational nexus and a rough proportionality as required by Noll
20 v. California Costal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S.
21 374 (1994) between the development impacts created by each type of development covered
22 by this ordinance and the impact fees that such development will be required to pay.

1 (m) There is ~~both a rational nexus and a rough proportionality~~ a reasonable
2 relationship or nexus as required by Simpson v. City of North Platte, 206 Neb. 240, 292
3 N.W.2d 297 (1980) between the development impacts created by each type of development
4 covered by this ordinance and the impact fees that such development will be required to pay.

5 (n) This ordinance creates a system by which impact fees paid by new
6 developments will be used to expand or improve the type of public facility for which the fee
7 was paid, so that the new development that pays each fee will receive a corresponding benefit
8 within a reasonable period of time after the fee is paid.

9 (o) This ordinance creates a system under which impact fees ~~shall~~will not be used
10 to cure existing deficiencies in public facilities; nor used for their maintenance and operation.

11 Section 3. That Title 27 of the Lincoln Municipal Code be amended by adding
12 a new section numbered 27.82.030 to read as follows:

13 **27.82.030 Intent.**

14 (a) The intent of this ordinance is to ensure that adequate water and wastewater
15 systems, arterial streets, and parks and trails are available to serve new growth and
16 development in the City of Lincoln and to regulate the use and development of land so as to
17 ensure that new growth and development bears its proportionate share of the cost of
18 improvements to the City's water and wastewater systems, arterial streets, and neighborhood
19 parks and trails needed to serve such new growth and development; to ensure that the
20 proportionate share for each type of public facility does not exceed the cost of providing that
21 type of public facility to the new development that paid the fee; and to ensure that funds

1 collected from new developments are actually used to construct public facilities that benefit
2 such new developments.

3 (b) It is not the intent of this ordinance to collect any money from any new
4 development in excess of the actual amount necessary to offset demands generated by that
5 new development for the type of public facility for which the fee was paid.

6 (c) It is not the intent of this ordinance that any monies collected from any impact
7 fee and deposited in an impact fee account ever be co-mingled with monies from a different
8 impact fee account or ever be used for a type of public facility different from that for which
9 the fee was paid.

10 (d) It is the intent of this ordinance to base water and wastewater impact fees on
11 the typical usage in a new building or other facility. Extinguishing of fires is not a part of
12 typical usage: maintaining pressure and flow to serve fire-fighting needs is a part of the
13 system overhead that is calculated into system costs in general and should not be charged
14 to a particular site or location. To allow adequate fire flow to sprinklers and internal
15 hydrants at some large and at-risk properties, it may be necessary for fire protection
16 purposes to install a larger water meter than would be necessary to meet day-to-day needs
17 of that facility. In those cases, it is the policy of the City that the impact fee for water and
18 wastewater should be based on the meter size needed by that facility for its typical usage,
19 without regard to fire-flow.

20 Section 4. That Title 27 of the Lincoln Municipal Code be amended by adding
21 a new section numbered 27.82.040 to read as follows:

1 **27.82.040 Definitions.**

2 Unless the context specifically indicates otherwise, the meaning of terms used in this
3 chapter shall be as follows:

4 **Building permit.** The City permit required to erect, construct, enlarge, alter, repair,
5 remove, convert, or demolish any building, structure, swimming pool, or parking lot pursuant
6 to the Lincoln Building Code.

7 **Connection.** The physical tie-in of a private water or wastewater service or system to
8 the City's public water or wastewater system.

9 Cost of construction. All design costs, construction costs, engineering fees, testing
10 expenses, inspection fees, and related miscellaneous costs.

11 **Developer.** Any person or legal entity undertaking development.

12 **Development.** Any construction expansion or conversion of a building, structure or
13 use which creates additional demand for Impact Fee Facilities, any change in use of a building
14 or structure which creates additional demand for Impact Fee Facilities, or any change in the
15 use of land, which creates additional demand for Impact Fee Facilities, or any connection to
16 the City's public water or wastewater system which creates additional demand for Impact Fee
17 Facilities.

18 **Downtown/Antelope Valley Exclusion Area.** The area Antelope Valley established and
19 shown on the ~~Downtown~~Downtown/Antelope Valley Exclusion Area Map ~~and more~~
20 particularly described as follows:

1 **Duplex.** Shall have the same meaning as two-family dwelling, as defined in section
2 27.03.200.

3 Encumber. To legally obligate by contract or otherwise commit to use by
4 appropriation or other official act of the City.

5 Fee pavor. That person or entity who pays an impact fee.

6 **Gross Floor Area.** The floor area within the inside perimeter of the exterior walls of
7 the building under consideration, exclusive of vent shafts and courts, without deduction for
8 corridors, stairways, closets, the thickness of interior walls, columns or other features. The
9 floor area of a building, or portion thereof, not provided with surrounding exterior walls shall
10 be the usable area under the horizontal projection of the roof or floor above. The gross floor
11 area shall not include shafts with no openings or interior courts.

12 **Impact Fee Administrator.** The person or persons designated by the City to be
13 responsible for administering this ordinance.

14 **Impact Fee Facility.** One or more elements of the City's water and wastewater
15 systems, arterial streets, and neighborhood parks and trails included in the calculations of the
16 impact fees in the Impact Fee Study.

17 **Impact Fee Facility Improvement.** Planning, ~~land acquisition,~~ engineering design,
18 construction inspection, on-site construction, off-site construction, equipment purchases, and
19 financing costs including the issuance of bonds or other obligations of indebtedness
20 associated with new or expanded facilities, buildings, and equipment that expand the capacity
21 of an Impact Fee Facility and that have an average useful life of at least fifteen (15) years, but
22 not including maintenance, operations, or improvements that do not expand capacity. An

1 impact fee facility improvement shall also include land acquisition for water storage
2 reservoirs, water pumping stations, wastewater trunk lines, and neighborhood parks.

3 **Impact Fee Study.** The Impact Fee Study prepared by Duncan Associates dated June
4 2002.

5 **Income Area, Low.** An area where 50% or more of the households within a census
6 block make 60% or less of the median gross income adjusted for household size.

7 **Income Area, Moderate.** An area where 50% or more of the households within a
8 census block make 80% or less of the median gross income adjusted for household size.

9 **Low Income Owner-Occupied Housing.** An owner-occupied unit, under local, state,
10 or federal regulations, which is sold to a household whose income is 80% or less of the area
11 median gross income adjusted for household size.

12 **Low Income Rental Housing.** A tenant-occupied unit which is rented to a household
13 whose income is 80% or less of the median gross income adjusted for household size and
14 which is rent restricted under local, state or federal regulations, to households whose income
15 is 80% or less of the median gross income adjusted for size, and which restrictions through
16 means of a land use restriction agreement or similar legal document runs with the property for
17 a period of at least fifteen years.

18 **Mobile home.** Shall be defined as in Section 27.03.430.

19 **Mobile home court.** The use of land for sites for mobile homes not located on
20 individual platted lots.

21 **Multi-family.** Shall have the same meaning as multiple dwelling, as defined in Section
22 27.03.210, except that it excludes townhouses.

1 Neighborhood Park and Trail Impact Fee Exclusion Area. The area established and
2 shown on the Neighborhood Park and Trail Impact Fee Benefit Areas Map as the Existing
3 Neighborhood Park and Trail Impact Fee Exclusion Area.

4 **Person** shall include a natural person, joint venture, joint stock company, partnership,
5 association, club, company, corporation, business, trust, organization, or the manager, lessee,
6 agent, servant, officer, or employee of any of them.

7 **Present Value.** The current value of past, present, or future payments, contributions
8 or dedications of goods, materials, construction or money, taking into account when
9 appropriate depreciation and inflation.

10 **Qualified Professional.** A professional engineer, surveyor, financial analyst or planner
11 providing services within the scope of his license, education, or experience.

12 **Single-family detached.** A single-family dwelling, as defined in Section 27.03.190, that
13 is not attached to any other dwelling by any means and that is the only dwelling unit on the
14 lot. This term shall include a mobile home located on a separately platted lot.

15 **Site-related improvements.** All site specific improvements primarily planned,
16 designed, or built to provide necessary access and service to the proposed development,
17 including all site driveways and local and collector streets leading only to the proposed
18 development; all traffic control devices that primarily give access to the development;
19 acceleration/deceleration lanes and left-turn and right-turn lanes to allow turning movements
20 into or out of the development from site driveways and local and collector streets.

21 **Tap.** The act of connecting to a public water main or public wastewater collector.

1 **Tap fee.** The permit fee required pursuant to Lincoln Municipal Code Section
2 17.10.040 to cover the City's cost in making the tap and of furnishing the required supply
3 connection, water meter with meter stops, and meter couplings, and other required meter
4 apparatus.

5 **Townhouse.** Shall have the same meaning as townhouse, as defined in Section
6 27.03.630.

7 Section 5. That Title 27 of the Lincoln Municipal Code be amended by adding
8 a new section numbered 27.82.050 to read as follows:

9 **27.82.050 Imposition of Impact Fees.**

10 (a) Requirement. After the effective date of this ordinance and the adoption of
11 impact fee schedules by resolution of the City Council, any person who applies for a building
12 permit for a development or who applies for any other permit for a development where a
13 building permit is not required, or who seeks to engage in a development for which no permit
14 is required, shall pay a water system impact fee, water distribution impact fee, wastewater
15 impact fee, arterial street impact fee, and neighborhood parks and trails impact fee unless the
16 type of development described in the permit or to be engaged in is specifically exempted,
17 waived or subsidized by this ordinance, or unless the type of development described in the
18 permit or to be engaged in is not located in an impact fee benefit district for the above-
19 described impact fees.

20 (b) Payment of Impact Fees. A person applying for any of the permits for a
21 development listed in subsection (a) above shall pay each impact fee required by this
22 ordinance to the Impact Fee Administrator prior to the issuance of any such permit. If the

1 issuance of a permit is not required for the development (e.g. golf course, park, change of use,
2 etc), then the person seeking to engage in the development shall pay each impact fee required
3 by this ordinance prior to the occurrence of any one of the following events, whichever occurs
4 first:

5 (1) Completion of any connection to the City's water and wastewater
6 systems; or

7 (2) The date when any part of the development opens for business or goes
8 into use.

9 No such permits shall be issued, no such connections shall be made, and no
10 such other development shall be opened for business or allowed to go into use until each
11 impact fee require by this ordinance has been paid.

12 All impact fees paid by a person pursuant to this ordinance shall be promptly
13 deposited in the appropriate impact fee accounts described in Section 27.82.070.

14 (c) Calculation of Impact Fees from Impact Fee Schedules.

15 (1) Unless the person applying for any of the permits for a development
16 listed in subsection (a) above or the person seeking to engage in a development for which no
17 permit is required requests that the City determine the amount of such fee pursuant to an
18 independent fee calculation study, the Impact Fee Administrator shall determine the amount
19 of each required impact fee through the use of impact fee schedules ~~to be set~~adopted by
20 ~~resolution~~ of the City Council.

21 (2) If the type of development or meter size that a permit is applied for or
22 the type of development to be engaged in for which no permit is required is not listed in a

1 schedule, then the Impact Fee Administrator shall use the fee applicable to the most nearly
2 comparable type, land use, or meter size in such schedule. In the case of arterial street impact
3 fees, decisions about what use is most nearly comparable shall be guided by the most recent
4 edition of "Trip Generation" and the companion "Trip Generation Manual" prepared by the
5 Institute of Transportation Engineers, or if such publications are no longer available, then by
6 a similar publication.

7 (3) If the type of development or meter size that a permit is applied for or
8 the type of development to be engaged in for which no permit is required includes a mix of
9 those uses or meter sizes listed in a schedule, then the fee shall be determined by adding up
10 the fees that would be payable for each use or meter size if it was a free-standing use pursuant
11 to such schedule.

12 (4) If a person is applying for a permit to allow a change of use or meter size
13 or for the expansion, redevelopment, or modification of an existing development, the fee shall
14 be based on the net increase in the fee for the new use or meter size as compared to the
15 previous use, provided that the previous use was in operation within fifteen years prior to the
16 first building permit for the redevelopment.

17 (5) If no use was in operation on the site within the last fifteen years, the
18 redevelopment shall be treated the same as a new development.

19 (6) If the proposed change of use, meter size, expansion, redevelopment, or
20 modification results in a net decrease in the fee for the new use or development as compared
21 to the previous use, meter size, or development, there shall be no refund of or credit for
22 impact fees previously paid.

1 (7) In the case of a demolition or termination of an existing use or structure,
2 the impact fee for future redevelopment of that site shall be based upon the net increase in the
3 impact fee for the new or proposed land use as compared to the previous use. Credit for the
4 prior use shall not be transferable to another location, except that if the old location was
5 acquired by the City for use for an Impact Fee Facility and will not be redeveloped, the City
6 will receive a credit against future impact fees equal to the impact fee that would have been
7 assessed against the relocated use which may be transferred by the City to a community
8 redevelopment project in another location within the same benefit area.

9 (8) In the case of a relocation of a use, an impact fee shall be assessed to the
10 relocated use at its new location. Credits from the old location shall not be transferable to the
11 new location. Future redevelopment of the old location from which the use was removed will
12 receive a credit against the impact fee assessed equal to the impact fee that would have been
13 assessed against the relocated use.

14 (d) Calculating Fees Through an Independent Fee Calculation Study.

15 (1) General Provisions. If in the judgment of the Impact Fee Administrator
16 there is no comparable type, land use or meter size in such fee schedules which can be used
17 to accurately describe the impacts resulting from any proposed development, the person
18 applying for a permit for such development or the person seeking to engage in such
19 development for which no permit is required shall provide to the Administrator for the
20 Administrator's review and evaluation an independent fee calculation prepared at such
21 person's cost by a qualified professional in the preparation of an impact fee analysis. In
22 addition, if such person elects not to have the impact fee determined according to the impact

1 fee schedules, such person may request that the Impact Fee Administrator determine the
2 amount of a required impact fee for the proposed development by reference to an
3 independent fee calculation study prepared at such person's cost by a qualified professional
4 in the preparation of such analysis. Any such study shall be based on the same service
5 standards and unit costs for facilities used in the Impact Fee Study, and shall document the
6 methodologies and assumptions used. Any independent fee calculation study submitted by
7 such person may be accepted, rejected, or accepted with modifications by the impact Fee
8 Administrator as the basis for calculating an impact fee. If such study is accepted or accepted
9 with modifications as a more accurate measure of the demand for Impact Fee Facilities created
10 by the proposed development than the applicable impact fee shown in the appropriate impact
11 fee schedules, then the impact fee due under this ordinance shall be calculated according to
12 such study.

13 (2) Additional Requirements for Arterial Street Impact Fee Studies. In
14 addition to those requirements listed in subsection (d)(1) above, any independent fee calcula-
15 tion study submitted by a person for purposes of calculating an arterial street impact fee shall
16 show the traffic engineering and economic methodologies and assumptions used, including
17 but not limited to the following forms of documentation:

18 (i) Such studies must include documentation of trip generation rates,
19 trip lengths, the percentage of trips from the site that represent net additions to current trips
20 from the site (if any), the percentage of trips that are new trips as opposed to pass-by or
21 diverted-link trips, and any other trip data for the proposed land use.

1 (ii) Such studies must include documentation of any special factors
2 that such person believes will reduce the traffic volumes otherwise attributable to the
3 proposed land uses.

4 Section 6. That Title 27 of the Lincoln Municipal Code be amended by adding
5 a new section numbered 27.82.060 to read as follows:

6 **27.82.060 Exemptions From Impact Fees.**

7 (a) Exemptions From All Impact Fees. The following types of development shall
8 be exempted from payment of all impact fees otherwise due pursuant to this ordinance:

9 (1) Replacement of a destroyed or partially destroyed residential building or
10 structure with a new building or structure of the same use, and with the same number of
11 residential units, provided that the rebuilding or replacement occurs no later than fifteen years
12 after the demolition or removal of the previous structure.

13 (2) Replacement of a destroyed or partially destroyed nonresidential building
14 or structure with a new building or structure of the same gross floor area and use, provided
15 that the rebuilding or replacement occurs no later than fifteen years after the demolition or
16 removal of the previous structure.

17 (3) Installation or replacement of a mobile home on a lot or site where all
18 impact fees for such lot or site have previously been paid pursuant to this ordinance or where
19 a mobile home legally existed on such lot or site on prior to the effective date of this
20 ordinance.

1 (4) Room additions, remodeling, rehabilitation or other improvements to an
2 existing structure, provided that there is no increase in the number of dwelling units for
3 residential use or in the amount of gross square footage for nonresidential use.

4 (5) Construction pursuant to a building permit issued prior to the effective
5 date of this ordinance, provided the construction proceeds according to the terms of the
6 building permit. If said building permit expires, application for a new building permit shall
7 be treated the same as a new development.

8 (6) Low Income Owner-Occupied Housing.

9 (i) An Owner-Occupied unit which is sold to a household whose
10 income is 60% or less of the area medium gross income adjusted for a household size shall
11 be entitled to a 100% exemption from all Impact Fees.

12 (ii) An Owner-Occupied unit which is sold to a household whose
13 income is more than 60% but is 80% or less of the area medium gross income adjusted for
14 a household size shall be entitled to a 50% exemption from all Impact Fees.

15 (7) Low Income Rental Housing located outside of a low or moderate
16 income area.

17 (i) A Tenant-Occupied unit which is restricted to rental to a
18 household whose income is 60% or less of the area medium gross income adjusted for
19 household size shall be entitled to a 100% exemption from all Impact Fees.

20 (ii) A Tenant-Occupied unit which is restricted to rental to a
21 household whose income is 80% or less of the area medium gross income adjusted for a
22 household size shall be entitled to a 50% exemption from all Impact Fees.

1 (b) Exemptions From Specific Impact Fees. The following types of projects shall be
2 exempted from the following types of impact fees:

3 (1) Development, pursuant to a written annexation agreement between the
4 City and a developer which was executed prior to June 1, 2002, and which specifically
5 addressed the
6 additional demand for Impact Fee Facilities created by such development shall be exempt
7 from the impact fee charged for those specific types of Impact Fee Facilities the Developer
8 agreed to finance or construct in whole or in part. Agreements qualifying for such
9 exemptions are listed in Table 27.82.060(b) at the end of this chapter. The Impact Fee
10 Administrator shall determine whether or not any other annexation agreement qualifies for
11 an exemption.

12 (2) Development within the Downtown Antelope Valley Exclusion Area shall
13 be exempt from the Arterial Street impact fee:

14 ~~————— (3) ——— No water or wastewater impact fee shall be charged for the oversizing~~
15 ~~of a water meter. Where the Bureau of Fire Prevention requires that a water meter be~~
16 ~~increased in size above that required for the development in order to install fire protection~~
17 ~~systems or lines.~~

18 ~~————— (4) ordinary usage of a building or other facility for the purposes of maintaining~~
19 ~~fireflow to internal lines, the water and wastewater fees for that building or other facility~~
20 ~~shall be based on the meter size that would be required without regard to the fireflow~~
21 ~~requirements.~~

1 3) Any separate water meter installed for irrigation purposes only connected
2 only to an irrigation system and not to any building or other facility designed for human
3 occupancy shall not be included in the calculation of the wastewater impact fee.

4 (54) Other types of development shall be exempted from payment of specific
5 impact fees otherwise due pursuant to this ordinance if the person applying for a permit for
6 such development or the person seeking to engage in such development for which no permit
7 is required can demonstrate that the proposed land use and development will produce no
8 additional demand for a specific Impact Fee Facility beyond what was generated from such
9 site prior to the proposed development, using an average cost (not marginal cost)
10 methodology. The fact that a proposed development has direct access to, or is located close
11 to, an existing facility of the type covered by an impact fee, shall not by itself be evidence that
12 the proposed development will have no impact on the need for Impact Fee Facilities of the
13 type covered by the impact fee.

14 (c) Request for Exemption Required. If a permit is required for the proposed
15 development, any such claim for exemption must be made no later than the date of the
16 application for the ~~first~~ permit for the proposed development except that a claim of exemption
17 for Low-Income Owner-Occupied Housing or Low Income Rental Housing ~~may~~must be made
18 no later than 30 days following the date the housing is first occupied. If the issuance of a
19 permit is not required for the development, then any such claim for exemption must be made
20 no later than the occurrence of any one of the following events, whichever occurs first:

21 (1) Completion of any connection to the City's water and wastewater
22 systems; or

1 (2) The date when any part of the development opens for business or goes
2 into use.

3 Any claim for exemption not made at or before that time provided above shall
4 be deemed waived.

5 (d) Determination of Validity. The Impact Fee Administrator shall determine the
6 validity of any claim for exemption pursuant to the criteria set forth in this ordinance. An
7 exemption for Low-Income Owner-Occupied Housing or Low Income Rental Housing shall
8 not become valid until after the City receives verification that such housing is occupied by an
9 eligible household.

10 (e) Funding of Exemptions. The proportionate share of any Impact Fee Facility or
11 Impact Fee Facility Improvement cost directly related to the exemptions granted pursuant to
12 Subsections (a) and (b) above shall be funded from a revenue source other than impact fees.

13 Section 7. That Title 27 of the Lincoln Municipal Code be amended by adding
14 a new section numbered 27.82.070 to read as follows:

15 **27.82.070 Impact Fee Funds.**

16 (a) Creation of Benefit Districts. Impact fees shall be spent only within the benefit
17 district in which they were collected, except that ~~water~~ (1) water system impact fees, water
18 distribution impact fees, and wastewater impact fees may be spent for water system impact
19 fee facility improvements, water distribution impact fee facility improvements, and
20 wastewater impact fee facility improvements, respectively, outside the corporate limits of
21 the City which benefit the district in which they were collected. ~~There;~~ and (2) any arterial
22 street used as a boundary between two arterial street benefit districts shall be considered

1 is included within both benefit districts and may be improved with fees collected in either
2 benefit district. The following benefit districts are hereby created seven benefit districts, as
3 follows:

4 (1) Water System Impact Fee Benefit District shall be the area served by the
5 Lincoln water system;

6 (2) Water Distribution Benefit District Nos. 1 through 7, inclusive, shall
7 be the respective incorporated areas of the City established and shown on the Water
8 Distribution Impact Fee Benefit Areas Map as Water Distribution Benefit Area Nos. 1
9 through 7, inclusive.

10 (23) Wastewater Impact Fee Benefit District shall be the area served by the
11 Lincoln Wastewater sSystem;

12 (34) Northwest Arterial Street Impact Fee Benefit District Nos. 1 through 7,
13 inclusive, shall be the respective incorporated areas of the City of Lincoln located north of the
14 centerline of O Street and west of the centerline of 27th Street established and shown on the
15 Arterial Street Impact Fee Benefit Areas Map as Arterial Street Benefit Area Nos. 1 through
16 7, inclusive, except for that portion of the Downtown/Antelope Valley Exclusion Area located
17 within said boundaries; any of areas.

18 (45) Northeast Arterial Street Neighborhood Park and Trail Impact Fee Benefit
19 District Nos. 1 through 7, inclusive, shall be the respective incorporated areas of the City of
20 Lincoln located north of the centerline of O Street and east of the centerline of 27th Street;

21 ----- (5) Southeast Arterial Street established and shown on the Neighborhood
22 Park and Trail Impact Fee Benefit Areas Map as Neighborhood Park and Trail Benefit Area

1 ~~nos. 5 through 7, inclusive, except for that portion of the Neighborhood Park and Trail~~
2 ~~Impact Fee Exclusion Area located within said areas. District shall be the incorporated area~~
3 ~~of the City of Lincoln located south of the centerline of O Street and east of the centerline of~~
4 ~~27th Street;~~

5 ~~(6) Southwest Arterial Street Impact Fee Benefit District shall be the~~
6 ~~incorporated area of the City of Lincoln located south of the centerline of O Street and west~~
7 ~~of the centerline of 27th Street except for that portion of the Downtown Antelope Valley~~
8 ~~Exclusion Area located within said boundaries;~~

9 ~~(7) Northwest Neighborhood Parks and Trails Impact Fee Benefit District~~
10 ~~shall be the incorporated area of the City of Lincoln located north of the centerline of O Street~~
11 ~~and west of the centerline of 27th Street;~~

12 ~~(8) Northeast Neighborhood Parks and Trails Impact Fee Benefit District shall~~
13 ~~be the incorporated area of the City of Lincoln located north of the centerline of O Street and~~
14 ~~east of the centerline of 27th Street;~~

15 ~~(9) Southeast Neighborhood Parks and Trails Impact Fee Benefit District shall~~
16 ~~be the incorporated area of the City of Lincoln located south of the centerline of O Street and~~
17 ~~east of the centerline of 27th Street; and~~

18 ~~(10) Southwest Neighborhood Parks and Trails Impact Fee Benefit District~~
19 ~~shall be the incorporated area of the City of Lincoln located south of the centerline of O Street~~
20 ~~and west of the centerline of 27th Street.~~

1 (b) Creation of Impact Fee Fund. An Impact Fee Fund is hereby created and shall
2 include the following ~~a separate~~ impact fee ~~accounts~~ account for each impact fee benefit
3 district as an interest bearing accounts distinct from the General Fund of the City:

- 4 ~~(1) Water Impact Fee Account;~~
- 5 ~~(2) Wastewater Impact Fee Account;~~
- 6 ~~(3) Northwest Arterial Street Impact Fee Account;~~
- 7 ~~(4) Northeast Arterial Street Impact Fee Account;~~
- 8 ~~(5) Southeast Arterial Street Impact Fee Account;~~
- 9 ~~(6) Southwest Arterial Street Impact Fee Account;~~
- 10 ~~(7) Northwest Neighborhood Parks and Trails Impact Fee Account;~~
- 11 ~~(8) Northeast Neighborhood Parks and Trails Impact Fee Account;~~
- 12 ~~(9) Southeast Neighborhood Parks and Trails Impact Fee Account; and~~
- 13 ~~(10) Southwest Neighborhood Parks and Trails Impact Fee Account.~~

14 (c) Monies in an Impact Fee Account. Each ~~such~~ impact fee account shall contain
15 only those impact fees collected pursuant to this ordinance for the types of Impact Fee
16 Facilities reflected in the title of the account plus any interest which may accrue from time to
17 time on such amounts.

18 (d) Use of Monies in an Impact Fee Account. The monies in ~~the~~ each impact fee
19 account shall be used only:

- 20 (1) To acquire ~~land for and/or acquire~~ or construct Impact Fee Facilities or
21 Impact Fee Facility Improvements of the type reflected in the title of the account and in the
22 location specified in Section 27.82.070(a); or

1 (2) As described in Section 27.82.080 (Refunds) or as described in Section
2 27.82.090 (Post-Ordinance Agreements), or as described in Section 27.82.100 (Pre-Ordinance
3 Reimbursements), or

4 (3) To retire bonds, or other obligations of indebtedness issued to fund the
5 construction of Impact Fee Facility Improvements.

6 ~~(34)~~ To pay consultant fees to update the impact fees.

7 Section 8. That Title 27 of the Lincoln Municipal Code be amended by adding
8 a new section numbered 27.82.080 to read as follows:

9 **27.82.080 Refunds of Impact Fees Paid.**

10 (a) Passage of Time. Any monies in any impact fee account that have not been
11 spent or encumbered within ~~ten~~eight years after the date on which such fee was paid shall,
12 upon application to the Impact Fee Administrator by the fee payor, be returned to such person
13 with interest since the date of payment at the rate earned by the City on the fees. Fees shall
14 be deemed to be spent on the basis that the first fee collected shall be the first fee spent.
15 Within ~~one~~six months of the end of the ~~ten-year~~eight-year period from the date on which the
16 unspent impact fee was paid, the Impact Fee Administrator shall notify the fee payor of
17 eligibility for a refund at the address listed with the Impact Fee Administrator. In order to
18 receive such refund, the fee payor shall be required to submit an application for such refund
19 within ~~six~~twelve months after the expiration of such ~~ten-year~~eight-year period. Any monies
20 in an impact fee account for which no application for a refund has been timely made shall be
21 retained by the City and expended on the types of Impact Fee Facilities reflected in the title
22 of the account without further limitation as to time of expenditure.

1 (b) Expiration of Permit. If a person has paid an impact fee required by this
2 ordinance and has obtained a building permit or any other permit for a development or
3 extensions thereto, and the permit or extension for which the fee was paid later expires
4 without the possibility of further extension, and the development activity for which the impact
5 fee was imposed did not occur and no impact has resulted, then such fee payor shall be
6 entitled to a refund of the fee paid, with interest. In order to be eligible to receive such
7 refund, such fee payor shall be required to submit an application for such refund within ~~thirty~~
8 ~~days~~six months after the expiration of the permit or extension for which the fee was paid.

9 (c) No Refund for Altered Development. After an impact fee has been paid
10 pursuant to this ordinance, no refund of any part of such fee shall be made if the development
11 for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or
12 reconfigured so as to reduce the size of the development, the number of units in the
13 development, or the amount of traffic generated by the development.

14 (d) Notice to Fee Payor. At the time of payment of any impact fee under this
15 ordinance, the Impact Fee Administrator shall provide the person paying such fee with written
16 notice of those circumstances under which refunds of such fees will be made. Failure to
17 deliver such written notice shall not invalidate any collection of any impact fee under this
18 ordinance.

19 Section 9. That Title 27 of the Lincoln Municipal Code be amended by adding
20 a new section numbered 27.82.090 to read as follows:

1 **27.82.090 Post-Ordinance Developer Agreements Regarding Impact Fee Facilities.**

2 (a) General Provision. After the effective date of this ordinance where a proposed
3 development includes or requires the construction of Impact Fee Facilities in connection with
4 such development, the City and developer may agree in writing to have the developer
5 participate in the financing or construction of part or all of such Impact Fee Facilities.

6 Such agreement may provide for future cash reimbursements to the developer
7 for the developer's participation in the financing or construction of the Impact Fee Facilities
8 consistent with the following requirements:

9 (1) Reimbursement for each type of Impact Fee Facility financed or
10 constructed by the developer ~~shall~~may be paid from and ~~shall not exceed the impact fees~~
11 ~~which would become due and payable under this ordinance within the proposed development~~
12 ~~for that same type of Impact Fee Facility~~with interest at the rate earned by the City or its
13 impact fee fund account.

14 (2) No reimbursement shall be paid from impact fees received for a different
15 type of Impact Fee Facility or against any other monies due to the City from such development
16 and ~~the~~any reimbursement to be paid from impact fees shall not constitute general liability
17 of the City.

18 (3) The reimbursement shall be calculated and documented as follows:

19 (i) The value of land dedicated or donated for water storage
20 reservoirs, water pumping stations, wastewater trunk lines, and neighborhood parks shall,
21 at such person's option, be valued at (a) 100% of the most recent assessed value for such land
22 as shown in the records of the County Assessor, or (b) the land's fair market value based on

1 its appraised land value on the date of transfer of ownership to the City, as determined by a
2 certified appraiser who was selected and paid for by such person, and who used generally
3 accepted appraisal techniques. If the City disagrees with the appraised value, the Impact Fee
4 Administrator may engage another appraiser at the City's expense, and the value shall be an
5 amount equal to the average of the two appraisals. If either party rejects the average of the
6 two appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being
7 shared equally by such person and the City. The third appraiser shall be selected by the first
8 two appraisers, and the third appraisal shall be binding on both parties.

9 (ii) If only a portion of a parcel of land is dedicated or donated for the
10 uses described in 3(i) above, the value of such land shall, at such person's option, be valued
11 at (a) 100% of the land's assessed value for such land based upon the most recent assessed
12 value for the parent parcel as shown in the records of the County Assessor, or (b) the land's
13 fair market value based on the appraised land value of the parent parcel on the date of transfer
14 of ownership to the City, as determined by a certified appraiser who was selected and paid
15 for by such person, and who used generally accepted appraisal techniques. If the City
16 disagrees with the appraised value, the Impact Fee Administrator may engage another
17 appraiser at the City's expense, and the value shall be an amount equal to the average of the
18 two appraisals. If either party rejects the average of the two appraisals, a third appraisal shall
19 be obtained, with the cost of such third appraisal being shared equally by such person and the
20 City. The third appraiser shall be selected by the first two appraisers, and the third appraisal
21 shall be binding on both parties.

1 (iii) The value of Impact Fee Facilities constructed by the developer
2 shall be based upon the actual cost of construction as verified by receipts submitted by the
3 developer.

4 ~~(4) In the event the impact fee schedule is revised to account for inflation,~~
5 ~~increased construction costs or other factors prior to payment of all the reimbursement, the~~
6 ~~remaining reimbursement shall be adjusted to reflect such changed circumstances.~~

7 (54) The reimbursement shall only be paid to the developer who participated
8 in the financing or construction of part or all of the Impact Fee Facilities or the developer's
9 legal successor in interest with an express right or entitlement to any reimbursement which
10 has been expressly transferred or assigned to the successor in interest.

11 (65) In the absence of an express transfer or assignment of the right or
12 entitlement to the reimbursement, the right or entitlement shall be deemed "not to run with
13 the land."

14 Section 10. That Title 27 of the Lincoln Municipal Code be amended by adding
15 a new section numbered 27.82.100 to read as follows:

16 **27.82.100 Developer Reimbursement for Pre-Ordinance Participation in Financing or**
17 **Construction of Impact Fee Facilities.**

18 (a) General Provisions. After the effective date of this ordinance where a pre-
19 ordinance development not subject to ~~a written mitigation agreement~~ an exemption from
20 impact fees pursuant to Section 27.82.060(b)(1) included or required the participation by the
21 developer in the financing or construction of Impact Fee Facilities, said developer or the
22 developer's legal successor in interest with the right or entitlement to a reimbursement which
23 has been expressly transferred or assigned to the successor in interest will be entitled to a cash

1 reimbursement for the present value of land dedicated or donated for water storage
2 reservoirs, water pumping stations, wastewater trunk lines and neighborhood parks and/or
3 the present value of the Impact Fee Facilities constructed by said developer as provided in (b)
4 below.

5 (b) Reimbursement shall be calculated as follows:

6 (1) No reimbursement shall be provided under this section for dedications,
7 contributions, payments or construction made more than fifteen (15) years prior to the
8 effective date of this ordinance.

9 (2) The present value of land dedicated or donated shall, at such person's
10 option, be valued at (a) 100% of the most recent assessed value for such land as shown in the
11 records of the County Assessor, or (b) the land's present fair market value based on its
12 appraised land value on the date of transfer of ownership to the City, as determined by a
13 certified appraiser who was selected and paid for by such person, and who used generally
14 accepted appraisal techniques. If the City disagrees with the appraised value, the Impact Fee
15 Administrator may engage another appraiser at the City's expense, and the value shall be an
16 amount equal to the average of the two appraisals. If either party rejects the average of the
17 two appraisals, a third appraisal shall be obtained, with the cost of such third appraisal being
18 shared equally by such person and the City. The third appraiser shall be selected by the first
19 two appraisers, and the third appraisal shall be binding on both parties.

20 (3) If only a portion of a parcel of land is dedicated or donated, the present
21 value of such land shall, at such person's option, be valued at (a) 100% of the land's assessed
22 value for such land based upon the most recent assessed value for the parent parcel as shown

1 in the records of the County Assessor, or (b) the land's present fair market value based on the
2 appraised land value of the parent parcel on the date of transfer of ownership to the City, as
3 determined by a certified appraiser who was selected and paid for by such person, and who
4 used generally accepted appraisal techniques. If the City disagrees with the appraised value,
5 the Impact Fee Administrator may engage another appraiser at the City's expense, and the
6 value shall be an amount equal to the average of the two appraisals. If either party rejects the
7 average of the two appraisals, a third appraisal shall be obtained, with the cost of such third
8 appraisal being shared equally by such person and the City. The third appraiser shall be
9 selected by the first two appraisers, and the third appraisal shall be binding on both parties.

10 (4) The amount of the reimbursement for a contribution payment or
11 construction made to an Impact Fee Facility prior to the effective date of the ordinance shall
12 be the present value of the contribution payment or the cost of construction, less the total
13 amount of impact fees for the same type of Impact Fee Facility that would have been due and
14 payable for development already undertaken within the whole development had that
15 development been subject to the impact fees imposed pursuant to Section 27.82.050.

16 (c) Procedure. No reimbursement shall be provided unless the developer who
17 participated in the financing or construction of the Impact Fee Facilities or the developer's
18 legal successor in interest makes application on forms provided by the City for the
19 reimbursement within one year following the effective date of ~~his~~this ordinance or such
20 developer's claim for the reimbursement shall be deemed waived. The application for
21 reimbursement must contain a statement under oath of the facts that qualify such developer
22 or the developer's legal successor in interest to receive a reimbursement, and must be

1 accompanied by documents evidencing the developer, at the request and demand of the City,
2 dedicated specific parcels of land for specific Impact Fee Facilities, or contributed to the cost
3 of constructing specific Impact Fee Facilities, or constructed specific Impact Fee Facilities in
4 accordance with all applicable state or city design and construction standards.

5 (d) Payment of the Reimbursement. Réimbursements for each type of Impact Fee
6 Facility shall be paid from and shall not exceed the impact fees which become due and
7 payable under this ordinance within the development for that same type of Impact Fee Facility
8 or against any other monies due to the City from such development and the reimbursement
9 shall not constitute a general liability of the City.

10 Section 11. That Title 27 of the Lincoln Municipal Code be amended by adding
11 a new section numbered 27.82.110 to read as follows:

12 **27.82.110 Miscellaneous Provisions.**

13 (a) Interest. Interest earned on monies in any impact fee account shall be
14 considered part of such account, and shall be subject to the same restrictions on use
15 applicable to the impact fees deposited in such account.

16 (b) First-In/First-Out Accounting. Monies in each impact fee account shall be
17 considered to be spent in the order collected, on a first-in/first-out basis.

18 (c) No Operation or Maintenance. No monies from any impact fee account shall
19 be spent for periodic or routine operation or maintenance of any facility of any type.

20 (d) No Restriction on Development Conditions. Nothing in this ordinance shall
21 restrict the City from requiring a person to construct reasonable project improvements required

1 to serve such person's project, whether or not such improvements are of a type for which
2 reimbursements are available under Section 27.82.090.

3 (e) Records. The Impact Fee Administrator shall maintain accurate records of the
4 impact fees paid, including the name and address of the person paying such fees, the project
5 for which the fees were paid, the date of payment of each fee, the amounts received in
6 payment for each fee, and any other matters that the Impact Fee Administrator deems
7 appropriate or necessary to the accurate accounting of such fees, and such records shall be
8 available for review by the public during City business hours.

9 (f) Assignment of Impact Fee Account Monies. The approved Capital Improvement
10 Program which includes any Impact Fee Facilities scheduled for construction shall assign
11 monies to fund in whole or in part such Impact Fee Facilities from the Impact Fee Fund
12 Account of the type for which the fees in that account were paid. Any monies, including any
13 accrued interest, not assigned to specific projects within such capital improvements program
14 and not expended pursuant to Section 27.82.080 (Refunds) or 27.82.090 (Reimbursements)
15 shall be retained in the same impact fee account until the next fiscal year.

16 (g) Administrative Costs. The City shall be entitled to collect an additional charge
17 of not more than two percent of each impact fee collected as payment for the expenses of
18 collecting the fee and administering this ordinance. In the case of refunds of impact fees
19 under Section 27.82.080, or reimbursements under Sections 27.82.090 and 27.82.100, the
20 City shall be entitled to retain not more than two percent of the impact fee payment made by
21 the applicant or the reimbursement due to the applicant as payment for the expenses of
22 processing the refund or reimbursement request.

1 (h) Mistake or Misrepresentation. If an impact fee has been calculated and paid
2 based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by
3 a person shall be refunded by the City to such person within thirty days after the City's
4 acceptance of the recalculated amount, with interest since the date of such overpayment at
5 the rate earned by the City on the funds. Any amounts underpaid by such person shall be paid
6 to the City within thirty days after the Impact Fee Administrator's acceptance of the
7 recalculated amount, with interest since the date of such underpayment at the rate then earned
8 by the City on its impact fee funds. In the case of an underpayment to the City, the City ~~shall~~
9 ~~not~~may refuse to issue any additional permits or approvals for the project for which the impact
10 fee was previously underpaid until such underpayment is corrected, and if amounts owed to
11 the City are not paid within such thirty-day period, the City may also repeal any permits issued
12 in reliance on the previous payment of such impact fee and refund such fee to the then current
13 owner of the land.

14 (i) Discretion to Reduce Impact Fees. In order to promote the economic
15 development of the City or the public health, safety, and general welfare of its residents, the
16 ~~City Council~~Mayor may agree to pay some or all of the impact fees imposed on a proposed
17 development or redevelopment from other funds of the City that are not restricted to other
18 uses. Any such decision to pay impact fees on behalf of a proposed development shall be at
19 the discretion of the ~~City Council~~Mayor and shall be made pursuant to goals and objectives
20 ~~previously expressed~~adopted by the City Council to promote such development.

21 (j) Appeals. Any determination made by any official of the City charged with the
22 administration of any part of this ordinance may be appealed by the aggrieved party to the City

1 Council by filing (1) a written Notice of Appeal on a form provided by the City, and (2) a
2 written explanation of why the appellant feels that a determination was in error. Appeals must
3 be filed with the City Clerk within ten days after the determination for which the appeal is
4 being filed. At the regular meeting following the filing of the appeal, the City Council shall
5 fix a time and place for hearing the appeal, and the City Clerk shall mail notice of the hearing
6 to the appellant at the address given in the Notice of Appeal. The hearing shall be conducted
7 at the time and place stated in such notice given by the City Council. In an appeal of an
8 impact fee, the Council shall not waive the fees, although the fees may be reduced pursuant
9 to subsection (i) above or may be reduced upon a finding that the impact fee was incorrectly
10 calculated, or that unusual circumstances of the development demonstrate that application of
11 the fee to the development would be unfair or unjust. The determination of the City Council
12 shall be final.

13 (k) Periodic Review. The impact fees and the administrative procedures established
14 by this ordinance shall be reviewed at least once every three fiscal years to ensure that:

- 15 (1) The demand and cost assumptions underlying such fees are still valid,
16 (2) The resulting fees do not exceed the actual cost of constructing Impact
17 Fee Facilities of the type for which the fee was paid and that are required to serve new
18 development,
19 (3) The monies collected or to be collected in each impact fee fund have
20 been or are expected to be spent for Impact Fee Facilities of the type for which such fees were
21 paid, and

1 (4) That such Impact Fee Facilities will benefit those developments for which
2 the fees were paid.

3 (l) Adjustments for Inflation. Beginning on January 1, 200~~8~~⁴, and on January 1 of
4 each following year unless and until the impact fee schedules are otherwise revised or
5 replaced by City Council, each fee amount set forth in each schedule shall be adjusted to
6 reflect the effects of inflation on those costs set forth in the Impact Fee Study by multiplying
7 such amount by a fraction, the numerator of which is the U.S. Consumer Price Index for All
8 Items for the most recent period for which figures are available, and the denominator of which
9 is U.S. Consumer Price Index for All Items for the period one year prior to the period reflected
10 in the numerator. Such adjustments in such fees shall become effective upon approval by
11 resolution of the City Council.

12 (m) Violations. Violation of this ordinance shall be a misdemeanor and shall be
13 subject to those remedies provided in Section 27.81.070. Knowingly furnishing false
14 information to any official of the City charged with the administration of this ordinance on any
15 matter relating to the administration of this ordinance, including without limitation ~~the~~to
16 knowingly furnishing ~~of~~ false information regarding the expected size, use, or traffic impacts
17 from a proposed development, shall be a violation of this ordinance. In addition to or in lieu
18 of any criminal prosecution, the City or any person applying for a permit of the types
19 described in Section 27.82.050(a) or any person seeking to engage in a development for which
20 no permit is requested shall have the right to sue in civil court to enforce the provisions of this
21 ordinance.

1 Section 14. That if any section, subsection, sentence, clause, phrase, part or
2 portion of this ordinance, including those parts adopted by reference, is for any reason held
3 to be invalid or unconstitutional by any court or agency of competent jurisdiction, such
4 decision shall not affect the validity of the remaining portions of this ordinance.

5 Section 15. That Sections 1 through 13 hereof be codified in the Lincoln
6 Municipal Code as Chapter 27.82, Impact Fees.

7 Section 16. That the Downtown/Antelope Valley Exclusion Area Map, the
8 Water Distribution Impact Fee Benefit Areas Maps, the Arterial Street Impact Fee Benefit
9 Areas Map, and the Neighborhood Park and Trail Impact Fee Benefit Areas Map, attached
10 hereto marked as Exhibit Nos. 1 through 4, are hereby adopted and incorporated herein by
11 reference.

12 Section 17. That this ordinance shall be in full force and effect as of June 1,
13 2003, after its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ___ day of _____, 2002:

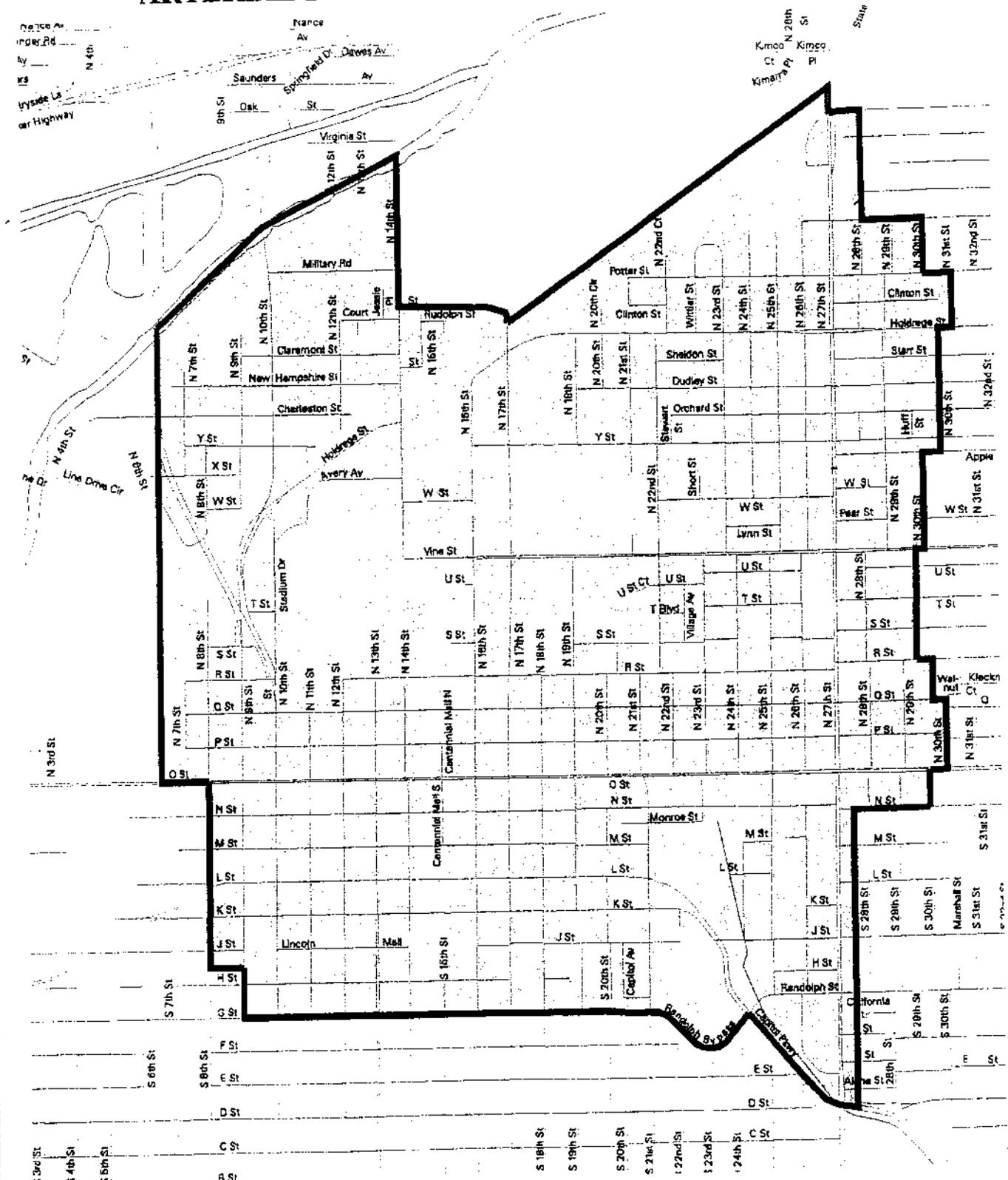
Mayor

Table 27.82.060(b)
Impact Fee Category Exemption for Annexation Agreements

Annex Number	Project Name	Location	Stated Contribution in Agreements for:			
			Arterial Streets	Water	Waste-water	Parks/ Trails
92002	Southfork Estates	S. 70 th & Highway 2	no	yes	yes	no
92008	Grandview Heights	N. 1st & Superior	no	yes	yes	no
92014	South Ridge	S. 27th & Pine Lake Rd.	yes	yes	yes	yes
93001	Good Life Tours	N. 84th & Fletcher Ave	no	yes	no	N/A
94003	Country Meadows	S. 66 th & Highway 2.	no	yes	yes	no
94004	Porter Ridge West	S. 27 th & Pine Lake Rd.	yes	yes	no	yes
95004	70th- Rogge (Industrial)	N. 70 th & Salt Creek	yes	yes	no	N/A
95005	Regent Heights, No. Lights	N. 84 th & Holdrege	yes	yes	yes	yes
95005	Mt. Olive Church	N. 80 th & Holdredge	no	yes	yes	yes
96001	Cemetery & Ridge	S. 14 th & Pine Lake Rd.	yes	yes	yes	yes
96002	Edenton, Hartland, et al.	S. 80 th & Old Cheney	no	yes	yes	yes
96004	New Covenant Church	S. 84 th & Old Cheney Road	no	no	no	no
96005	Vestecka Villa Van Dorn	S.W 15 th & West Van Dorn	no	yes	no	no
96006	King Ridge, Northridge Hts.	N. 27th & Folkway	yes	yes	no	yes
97002	St. Marks Church	S. 84th & Pioneers	no	yes	no	no
97003	Horizon Business Center	S. 14th & Pine Lake Rd.	yes	yes	yes	N/A
97010	Smith & Shuster	S.W 27th & West A	no	no	no	N/A
97011	Campbell/ Anderson Ford	N. 27th & I-80	yes	no	no	N/A
98002	Berean Church	S. 70th & Highway 2	no	yes	yes	no
98004	Pickering - Horizon	S. 14th & Pine Lake Road	yes	yes	no	N/A
98005	Pine Lake Hts., Ridge prop.	S. 27th & Yankee Hill Road	yes	yes	yes	no
98013	State Farm	S. 84th & O Street	yes	no	no	N/A
99001	View Pointe West	N. W. 56th & W. Adams	no	yes	yes	no
99002	Vavrina Meadows	S. 14th St. & Yankee Hill	yes	yes	yes	yes
99005	Vintage Heights 2nd	S. 98th & Pine Lake Rd.	no	yes	yes	no
99007	Eagle Crest	N. 84th & Holdrege	no	yes	yes	no
99018	Landmark Center	N. 33 rd & Folkway Blvd.	yes	yes	no	N/A
99019	Fallbrook	N. 1st & Highway 34	yes	yes	no	yes
99022	Event Center and UNL farm	N. 84th & Havelock	no	yes	yes	no
99023	Fleming/ Schroeder	S. 14th & Yankee Hill	no	yes	yes	N/A
00001	Ashley Heights	N. W. 48th & West Adams	no	no	yes	no
00002	North Creek Trade Center	Fletcher Ave. & Telluride Dr.	yes	no	no	N/A
00003	Stone Bridge Creek	I-80 & N. 14th St.	yes	yes	yes	no
00005	Willowbrook	S. 70th & Highway 2	yes	no	yes	N/A
00006	Morning Glory Estates	N. 84th & Holdrege	yes	no	yes	no
00007	Kawasaki	N.W. 27th & Highway 34	yes	yes	yes	N/A
01001	Vavrina Meadows 1st	S. 14th St. & Yankee Hill	yes	yes	yes	yes
01003	S.W. 56th & W "O"	S.W. 56th & West O	no	no	no	N/A
01006	Andermatt	84th & Highway 2	yes	yes	yes	yes

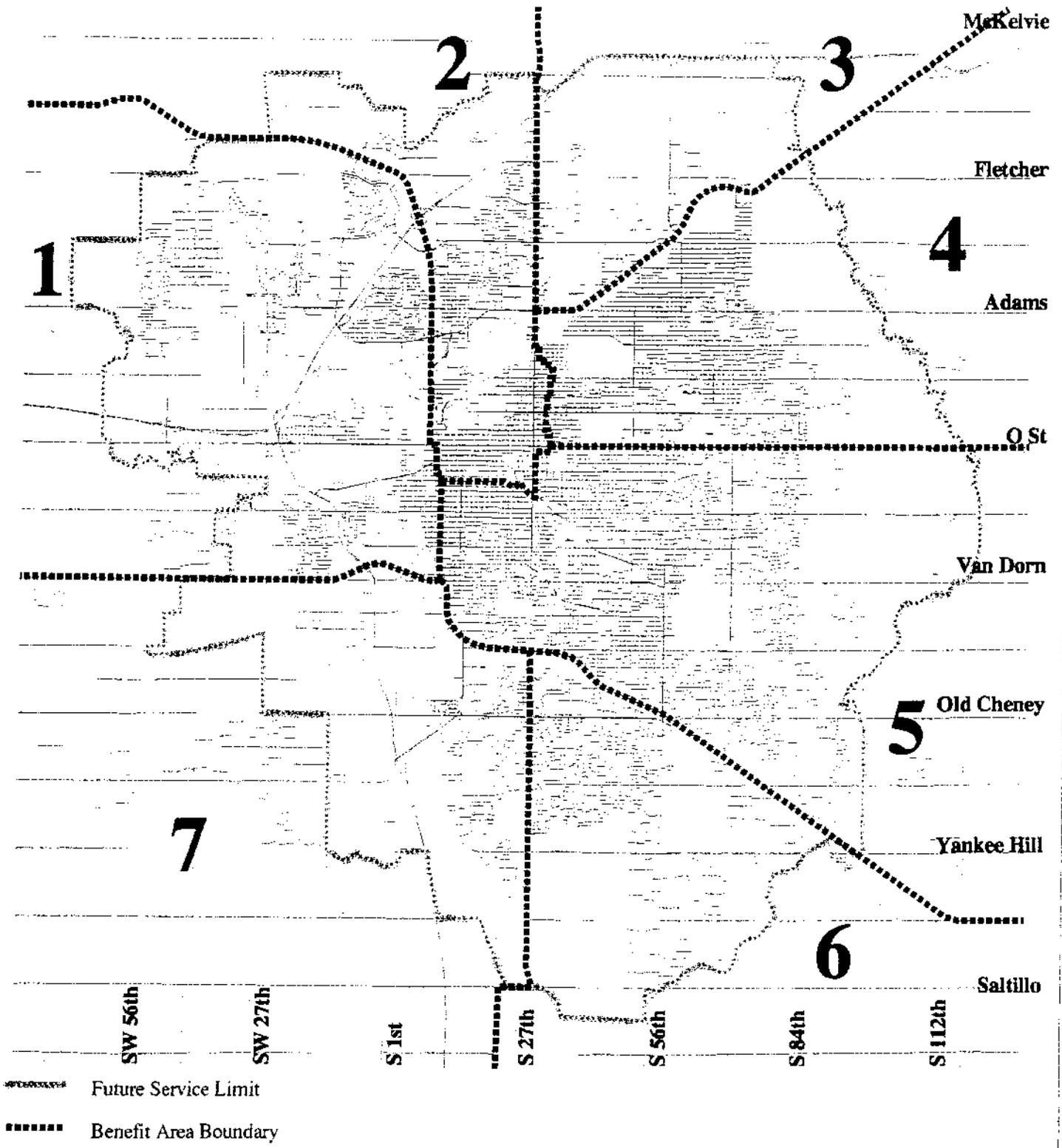
Note: Final determination will depend upon which items are deemed as eligible improvements in impact fee ordinance and further review of each agreement.

DOWNTOWN / ANTELOPE VALLEY ARTERIAL STREET FEE EXCLUSION AREA MAP



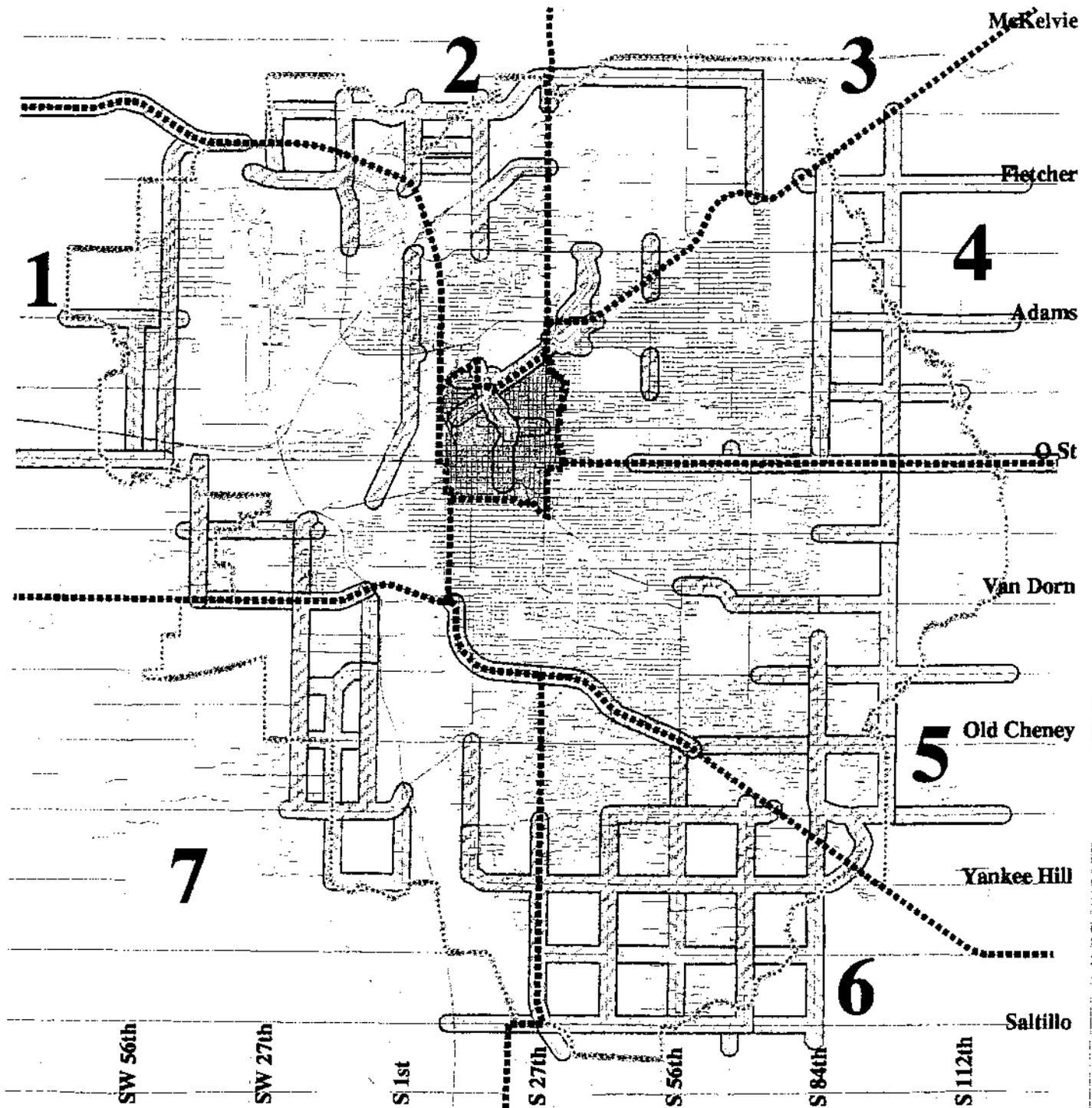
October 8, 2002

WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP



SCALE:
1 In = 11,500 Ft

ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP

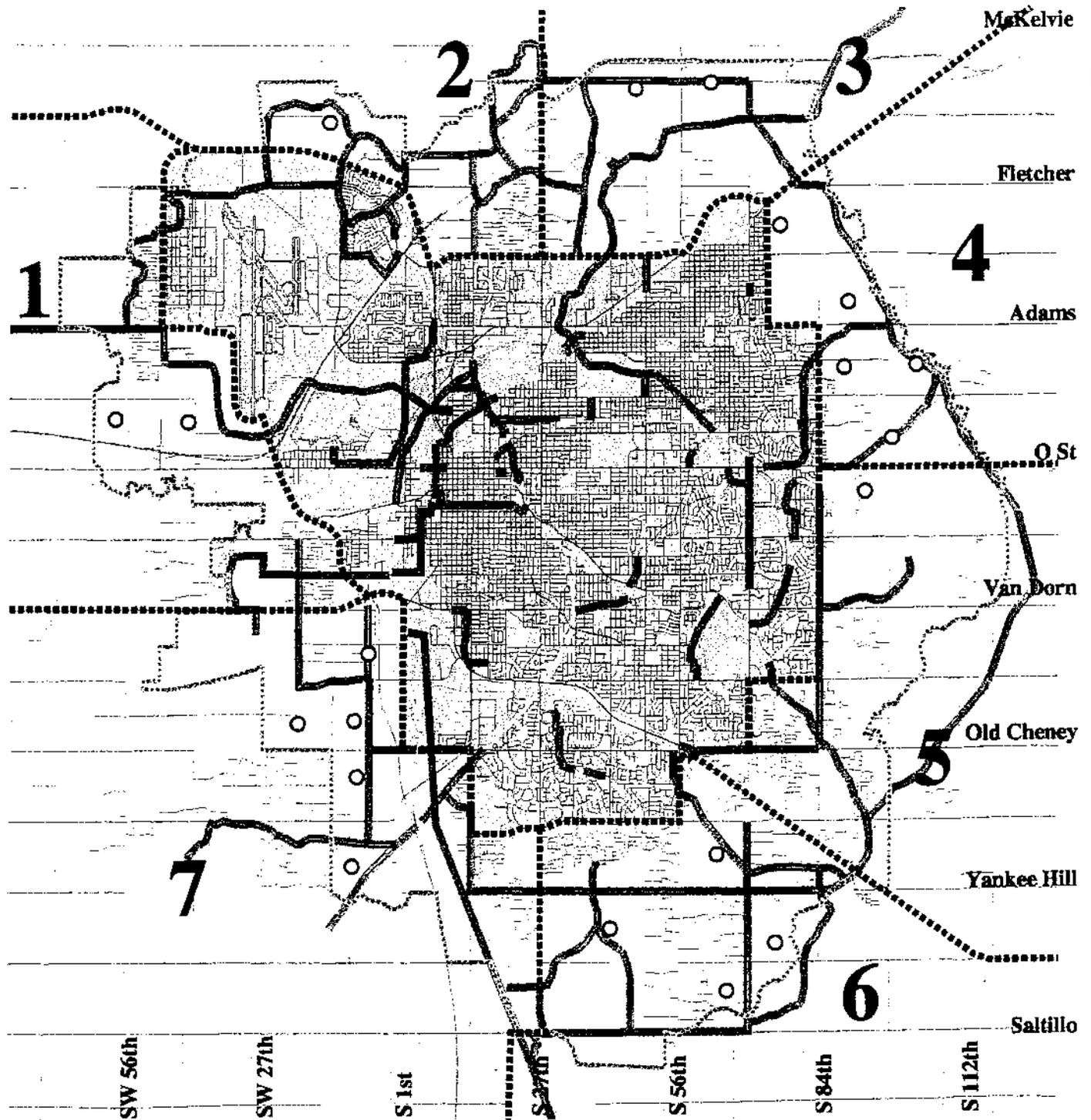


-  Future Service Limit
-  Benefit Area Boundary
-  Downtown/Antelope Valley Impact Fee Exclusion Area
-  2 Lanes + Center Turn Lane
-  4 Lanes + Center Turn Lane
-  6 Lanes + Center Turn Lane



SCALE:
1 In = 11,500 Ft

NEIGHBORHOOD PARK & TRAIL IMPACT FEE BENEFIT AREAS MAP



- Future Service Limit
- Benefit Area Boundary
- Existing Neighborhood Park & Trail Impact Fee Exclusion Area
- Future Trail
- Future Neighborhood Park



SCALE:
1 In = 11,500 Ft

02-

Introduce:

ORDINANCE NO. _____

1 AN ORDINANCE amending Section 26.23.040 of the Lincoln Municipal Code
 2 to amend Table 26.23.040 to modify the reference to the Comprehensive Plan and to increase
 3 the minimum right-of-way width for bikeways from a 14-foot easement to a 20-foot easement;
 4 amending Section 26.23.160 of the Lincoln Municipal Code to require a dedication of land
 5 or payment of an impact fee for neighborhood parks and trails; and repealing Sections
 6 26.23.040 26.23.160 of the Lincoln Municipal Code as hitherto existing.

7 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

8 Section 1. That Section 26.23.040 of the Lincoln Municipal Code be amended
 9 to read as follows:

10 **26.23.040 Street and Other Public Way Widths.**

11 (a) The width of all rights-of-way shall conform to the widths prescribed herein and
 12 shall be determined pursuant to the comprehensive plan.

13 (b) The minimum right-of-way widths shall be as follows:

14 Classification	Width
15 Urban major streets 16 (Streets and roads shown on the future 17 urban street and road network map in 18 the comprehensive plan).	80 feet (except when more right-of-way is shown on the anticipated right-of-way for street and road project implementation map or <u>described for such streets</u> in the comprehensive plan or less right-of-way is required on the building line map.)

1 Nonurban major streets 100 feet
2 Streets and roads shown on future
3 county street and road network map in
4 the comprehensive plan).

5 Collector streets 72 feet

6 Local streets:

7 Commercial, business, or industrial
8 zoning district 66 or 72 feet
9 (In accordance with design standards)

10 Residential 60 feet

11 Cul-de-sacs:

12 Residential 60-foot radius

13 Commercial, business, or industrial 66- or 72-foot radius
14 (In accordance with design standards)
15

16 Alleys 20 feet

17 Pedestrian ways 5-foot easement for the sidewalk

18 Bikeways ~~14-foot easement~~
19 20-foot easement

20 Section 2. That Section 26.23.160 of the Lincoln Municipal Code be amended

21 to read as follows:

22 **26.23.160 Parks, Fire Stations, Libraries, Bikeways, Easement Along Streams, and Other**
23 **Public Areas.**

24 (a) In subdividing property, consideration shall be given to suitable areas for
25 schools, parks, playgrounds, fire stations, libraries, and other common areas for public use in
26 conformance with the comprehensive plan.

27 (b) All subdivisions for residential development shall provide for the neighborhood
28 park land needs of its future residents by dedicating suitable land for neighborhood parks,

1 paying the impact fees for neighborhood parks and trails pursuant to Chapter 27.82, Impact
2 Fees, or by a combination of the two methods.

3 (1) Whether the neighborhood park land need will be satisfied by the
4 dedication of land, payment of the impact fee, or some combination of the two methods shall
5 be at the sole discretion of the City.

6 (2) The maximum amount of land that can be required to be dedicated per
7 unit for neighborhood parks is as follows:

<u>Housing Type</u>	<u>Acres/Unit</u>
<u>Single-Family Detached</u>	<u>0.00659 0.00558</u>
<u>Townhouse</u>	<u>0.00554 0.00460</u>
<u>Duplex</u>	<u>0.00488 0.00414</u>
<u>Multi-Family</u>	<u>0.00389 0.00328</u>
<u>Mobile Home Court (per pad site)</u>	<u>0.00560 0.00474</u>

14 (3) The area to be dedicated shall be shown on the preliminary plat and final
15 plat.

16 Section 3. That Sections 26.23.040 and 26.23.160 of the Lincoln Municipal
17 Code as hitherto existing be and the same are hereby repealed.

18 Section 4. That this ordinance shall take effect and be in force from and after
19 its passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Staff Review Completed:

Administrative Assistant

Approved this ___ day of _____, 2002: _____ Mayor
