

ORDINANCE NUMBER 2007-06
LEEDS IMPACT FEE ADMINISTRATION SYSTEM
THROUGH 2025
SUPERSEDES ORDINANCE 97-10 LEEDS IMPACT FEE
ADMINISTRATION SYSTEM

AN ORDINANCE REPLACING LEEDS ORDINANCE 97-10 ESTABLISHING PROCEDURES FOR THE IMPOSITION, CALCULATION, COLLECTION, EXPENDITURE AND ADMINISTRATION OF IMPACT FEES; PROVIDING A PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING GENERAL PROVISIONS AND APPLICABILITY; PROVIDING FOR THE ESTABLISHMENT OF IMPACT FEE ACCOUNTS, THE APPROPRIATION OF IMPACT FEE FUNDS, AND FOR REFUNDS; PROVIDING FOR EXEMPTIONS AND FOR APPEALS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Utah has established requirements for the imposition, administration and use of impact fees, the Impact Fees Act, Utah Code Ann. §11-36-101, et.seq.; and

WHEREAS, pursuant to the Impact Fees Act, Leeds Town is required to comply with its requirements; and

WHEREAS, the Town Council has considered and evaluated the procedures for the administration and operation of the Leeds Town impact fee system; and

WHEREAS, the Town Council finds it necessary and appropriate to establish procedures, not only pursuant to the Impact Fees Act, Utah Code Ann. §11-36-101, et.seq., but also to ensure the fair, equitable and efficient administration of the Leeds Town impact fee system;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF LEEDS TOWN, UTAH, the Leeds Impact Fee Administration System is as follows:

THE REVISED ORDINANCE, PASSED AND ADOPTED by the Town Council, of Leeds Town, Utah this 28 day of March, 2007

TRUDY LAW, MAYOR

ATTEST: _____
Karen Markovich, Leeds Town Clerk

LEEDS, UTAH

IMPACT FEE ADMINISTRATION SYSTEM

ORDINANCE NUMBER 2007-06

Adopted March 28, 2007

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LEEDS TOWN IMPACT FEE ADMINISTRATION SYSTEM

1.0 Purpose and Intent

1.1 **Purpose.** The purpose and intent of the Impact Fee Administration System is:

- 1.1.1 To establish uniform procedures for the imposition, calculation, collection, expenditure and administration of Impact Fees imposed on new development by Leeds Town;
- 1.1.2 To facilitate the implementation of the goals, objectives and policies of the Leeds General Plan, Leeds Capital Facilities Plan(s), and Leeds Land Use and Subdivision Ordinance, assuring that new impact-producing development contributes its fair share towards the cost of providing capital facilities reasonably necessitated by such development;
- 1.1.3 To ensure that new development is reasonably benefited by the provision of capital facilities provided by Impact Fees; and
- 1.1.4 To ensure that all applicable legal standards as required by Federal and State statutory law and all applicable case law standards are properly incorporated.

2.0 Definitions

The words or phrases used herein shall have the meaning prescribed herein:

- 2.1 **Applicant.** A person, company or corporation who has filed an application for preliminary or final subdivision approval, preliminary or final site plan approval, conditional use approval or building permit approval.
- 2.2 **Application for Development Approval.** An application for development approval that is subject to this Ordinance as set forth herein.
- 2.3 **Appropriation, To Appropriate, Encumber.** An action by the Leeds Town Council to identify capital facilities for which Impact Fee funds may be utilized. Appropriation shall include, but shall not be limited to: inclusion of a Capital Facility in the adopted Town budget or capital facilities plan; execution of a contract of other legal encumbrance for the provision of a Capital Facility, using Impact Fee funds; and expenditure of Impact Fee funds through payments made from an Impact Fee account.
- 2.4 **Capital Facilities.** Shall include “system improvements” as defined in Utah Code Ann. § 11-36-102(16), and also includes costs and expenses incurred in connection with the planning, design, engineering and construction of such facilities; planning, legal, appraisal and other costs related to the acquisition of land, financing and development costs including debt service charges; the cost of compliance with purchasing procedures and applicable administrative and legal requirements; and all

other costs necessarily incident to the provision of a Capital Facility, which are public facilities, as allowed by the Utah Code.

- 2.5 **Capital Facilities Plan.** A document, required by the Utah Impact Fees Act (Utah Code Ann. § 11-36-101 et.seq.) (the “Act”) identifying; the demands placed upon existing public facilities by Development Activity; and the proposed means by which Leeds Town will meet said demands. Capital Facilities Plans for the Town may be created separately by categories of Impact Fees allowed by the Act or collectively and shall identify the anticipated future demand upon the Town to provide capital facilities over a specified plan period.
- 2.6 **Credit.** A reduction in the Impact Fee calculated to be due from an Applicant for a specific Development Activity as may be determined by the Town and approved by the Town Council. As set forth below, Credits may only be given in the event an Applicant has, prior to the date an Impact Fee is due, constructed, assisted in the payment thereof, or dedicated land for a Capital Facility that is deemed to be a System Improvement.
- 2.7 **Credit Certificate.** A certificate issued by the Town allowing a defined amount of credit toward the dollars due for a specific Impact Fee in a defined Capital Facility category. These certificates are issued under an approved agreement in which the recipient of the certificate has provided funds for a Capital Facility improvement.
- 2.8 **Development Activity.** Any construction, expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities
- 2.9 **Development Approval.** Any final authorization provided by Leeds Town permitting the commencement of a Development Activity including, but not limited to; final subdivision plat approval (includes subdivisions of any size), final site plan approval, and issuance of a valid building permit.
- 2.10 **District or Impact Fee District.** A defined geographic area designated by a local political subdivision on the basis of sound planning or engineering principles in which a defined set of public facilities provide service within the area. A District or Impact Fee District may include the entire local political subdivision.
- 2.11 **Fee Adjustment.** A factor included within the Capital Facility Impact Fee calculation methodology, to avoid a potential double-charging for prior fees or assessments paid, and fees or assessments anticipated to be paid in the future for the provision of Capital Facilities required to serve impact-producing development and included in a Capital Facilities Plan.
- 2.12 **Impact Fee.** A payment of money imposed upon Development Activity as a condition of development approval. Impact Fee does not mean a tax, a special assessment, a building permit fee, a hook-up fee, a fee for project improvements, or other reasonable permit or application fee.
- 2.13 **Impact Fee District Map(s).** The map(s) defining the geographical extent of the Impact Fee Districts and sub-districts for each adopted Impact Fee.

- 2.14 **Project Improvement.** Project improvements means site improvements and facilities that are: 1) planned and designated to provide service for development resulting from a Development Activity; 2) necessary for the use and convenience of the occupants or users of a development resulting from a Development Activity. “Project improvements” does not mean system improvements.
- 2.15 **Public Facilities.** Include the following capital facilities that have a life expectancy of ten or more years and are owned or operated by or on behalf of a local political subdivision or private entity: 1) water rights and water supply, treatment, and distribution facilities; 2) wastewater collection and treatment facilities; 3) storm water, drainage, and flood control facilities; 4) municipal power facilities; 5) roadway facilities; 6) parks, recreation facilities open space, and trails; 7) Public safety facilities.
- 2.16 **Subdivision, New.** Any subdivision platted after the adoption of this ordinance.
- 2.17 **System Improvements.** Include both existing public facilities that are designed to provide services to service areas within the community at large and future public facilities identified in a capital facilities plan that are intended to provide services to service areas within the community at large. “System improvements” does not mean project improvements.

3.0 General Provisions

- 3.1 **Term.** This Ordinance shall remain in effect unless and until repealed, amended or modified by the Town Council in accordance with applicable state law, local Ordinance and procedures.
- 3.2 **Annual Review.** At least once every year and prior to the Town Council adoption of the Town Budget, the Town shall review the Leeds Town Impact Fee System and may prepare a Report on the subject of Impact Fees. The report shall include:
- 3.2.1 Recommendations on amendments, if appropriate, to Town requirements imposing and setting Impact Fees for each category of capital facilities;
 - 3.2.2 Proposed changes to the Leeds Town Capital Facilities Plan(s), including the identification of Capital Facility projects anticipated to be funded wholly or partially by Impact Fees;
 - 3.2.3 Proposed changes to the boundaries of Impact Fee districts or sub-districts;
 - 3.2.4 Proposed changes to Impact Fee calculation methodologies as contained in the Ordinance(s) imposing the setting of Impact Fees;
 - 3.2.5 Proposed changes to levels of service standards for capital facilities;
 - 3.2.6 Other data, analysis or recommendations as may be deemed appropriate.

- 3.3 **Request for Information.** Any person may request, and the Town shall provide within fourteen (14) days, all information and other materials related and relevant to the imposition, calculation and collection of Impact Fees. The Town may recover all costs generally incurred to provide the information requested.

4.0 **Affected Area**

- 4.1 **Impact Fee District.** Impact Fees shall be imposed on all Development Activity within an Impact Fee District, which may be divided into Impact Fee sub-districts. Generally an Impact Fee District should include all areas within the municipal boundaries of Leeds Town, Utah.
- 4.2 **Change in Boundaries of Impact Fee Districts.** The Town Council may amend the boundaries of an Impact Fee District, or sub-districts, at such times as may be deemed necessary to carry out the purposes and intent of this Chapter and applicable legal requirements for the use of Impact Fees. In the event of annexation of an unincorporated portion of Washington County into the Town, the Impact Fee District boundaries shall be deemed to have been changed by operation of law.

5.0 **Type of Development Affected**

- 5.1 **Development affected.** All development, including subdivision, regardless of size and all building permits for both residential and commercial structures, as well as any development that will use public facilities.
- 5.2 **Type of Development Not Affected.**
- 5.2.1 **Prior building Permits.** Proposed development for which a building permit has been issued prior to the effective date of this Ordinance providing the use and size of the structure has not changed.
- 5.2.2 **Previous Payment of Impact Fees.** Impact Fees imposed at time a building permit is issued for a specific Capital Facility shall not be recalculated at a later stage of the development even if the impact has changed in the meantime. Impact Fees paid at the time of a subdivision plat approval for a specific Capital Facility shall be recalculated when a building permit is approved if the Impact Fee has changed in the meantime. In this case only the difference between the paid Impact Fee and the then current Impact Fee will be imposed for the Capital Facility involved.
- 5.2.3 **Public Facilities of the County, State, school district, special service districts, municipalities, or political subdivision of the State of Utah or Federal Government.**
- 5.2.4 **Replacement Residential Unit.** Redevelopment or rehabilitation which replaces but which does not increase the number of residential dwelling units or the ability to house more residents above that existing on the site prior to redevelopment or rehabilitation.

- 5.2.5 Replacement Non-residential Development. Redevelopment or rehabilitation which replaces, but which does not increase the intensity of development above the existing on the site prior to redevelopment or rehabilitation nor changes the use to one which has a greater impact-producing effect with respect to any Capital Facility than that existing on the site prior to redevelopment or rehabilitation.

6.0 Procedures for Imposition, Calculation and Collection of Impact Fees

- 6.1 **Imposition.** A final new subdivision plat or building permit will only be approved after Impact Fees are paid as defined in this section. The amount of the Impact Fees will be as detailed in the Impact Fee Analysis for each Impact Fee category. Building permit fees are not included in Impact Fees. The following methods are to be used for applying and collecting Impact Fees for the Town for each category of Capital Facility.
- 6.1.1 Parks. Impact Fees will be collected at time application is submitted for a building permit for any residential lot or commercial facility which provides lodging facilities. Commercial properties which are for the purpose of overnight or long term lodging will be considered residential for purposes of collecting Park Impact Fees. Facilities with short term or overnight residential unit or location for a residential unit in the case of a Recreational Vehicle Park will be considered one-third (1/3) of a residential unit when calculating Impact Fees. Facilities for long term residents shall be considered residential units for collecting Impact Fees.
- 6.1.2 Public Safety. Impact Fee will be collected at time application is submitted for a building permit for any residential lot. Impact Fees for commercial property will be collected at time a site plan is approved.
- 6.1.3 Transportation.
- 6.1.3.1 New Subdivision. All new subdivision Impact Fees will be collected at time of Building Permit approval. As Impact Fees are for system improvements, all project improvements are to be provided by the developer. Project improvements include access roads from an existing deeded road with an asphalt surface to the project and all roads either through and/or adjacent to the project. Project improvement will require asphalt road width in accordance with Leeds Standard Specification for Design and Construction to accommodate the traffic projected for this project. The right-of-way to be dedicated will be in accordance with the Leeds Master Transportation Plan. That is, if a local road is all that is required for the subdivision and the Master Transportation Plan identifies the road as a Collector Road the developer will dedicate the Right-of-Way for the collector road, but is only required to construct a road meeting local road width. If it is determined that the full Collector road is to be needed at the time of initial road construction either by the Town or the developer, and not needed for this development, then a transportation credit will be given to the developer. If the developer

builds a road that is to be used as a collector road, and meets the standards for a collector road, this additional road width will be considered a System Improvement and as such will be given a credit for the additional width of the road. This credit shall be applied equally to all lots within the subdivision toward the transportation Impact Fee. The credit for each lot will not exceed the Impact Fee in existence at time of subdivision final plat approval.

6.1.3.2 Individual lots. Single lots, outside of a new subdivision in which an Impact Fee for the lot has not previously been paid, will be collected at the time a building permit is requested.

6.1.4 Culinary Water.

6.1.4.1 New Subdivision. All new subdivision Impact Fees will be collected at time of final plat approval and recording of the plat. As Impact Fees are for system improvements all project improvements are to be provided by the developer. Project improvements are, but not limited to, storage facilities, distribution lines, water source and pumps necessary to accomplish proper distribution of culinary water within the subdivision. If water is not available adjacent to the subdivision, then the developer will install the lines necessary to provide water to the subdivision as a project improvement. If the Town requests that the system line to the subdivision be increased over the size that is necessary for the subdivision, then the over-sizing is considered a system improvement and subject to a credit. If water storage capacity is needed or present storage capacity increased for the subdivision, this is considered a project improvement. If the Town requests that the storage capacity be increased greater than what is required for the subdivision, this increased size will be considered a system improvement subject to a credit. The credit shall be applied equally to all lots within the subdivision toward the culinary water Impact Fee. The credit for each lot will not exceed the Impact Fee existing at time of subdivision final plat approval. If the Town has an agreement with the Washington County Water Conservancy District (WCWCD) and the Impact Fee collected by the Town does not include the WCWCD Impact Fee, the applicant must show evidence of paying the WCWCD impact prior to approval and collecting the Leeds Impact Fee. The Leeds Impact Fee will not include infrastructure installed and is part of the WCWCD Impact Fee unless an agreement is in place whereby an applicant is not paying double for a given capital improvement.

6.1.4.2 Individual lots. Impact Fees for individual lots will be paid at time of building permit application unless the total Impact Fee was paid as part of the subdivision Impact Fee.

6.1.5 Irrigation Water. Each developer shall include as part of the project improvements a separate water distribution for irrigation water unless the plat is recorded stating that all lots will be “zero-landscape” lots using only native and desert landscaping. Where irrigation water is to be used the same

conditions for distribution and storage as stated under culinary water will apply including irrigation water credit for system improvements not required by the subdivision.

- 6.1.6 Sewer. Impact Fees for sewer will be in two categories 1) for the sewer treatment plant; and 2) for the collection lines and any lift stations required.
 - 6.1.6.1 The sewer treatment plant Impact Fee will be applied to all new subdivisions based on the number of lots within the subdivision. The single lot Impact Fee for the sewer treatment plant will be the same as that for each lot in a subdivision. In a multifamily dwelling or a dwelling that has a guest house, each dwelling unit will be charged the Impact Fee.
 - 6.1.6.2 Collection lines including tying into the trunk line will be the developer's responsibility to install to meet the requirements for his subdivision. If the Town requests that the capacity of collecting lines or lifting capacity be increased greater than what is required for the subdivision this increased size will be considered a system improvement subject to a credit. This credit shall be applied equally to all lots within the subdivision toward the sewer collection lines Impact Fee. The credit for each lot will not exceed the Impact Fee in existence at time of subdivision final plat approval. Single lots will be charged an Impact Fee based on the lot frontage. The minimum amount will be based on 100 foot frontage. For lots with a frontage width more than 100 feet, the Impact Fee would increase at one percent (1.0%) per foot over 100 feet. Example: for a lot width 200 foot frontage the Impact Fee for the sewer collecting line would double.
 - 6.1.6.3 Credit Certificates issued by the Town to be applied to a sewer system may be applied to either or both the sewer Impact Fee and/or the collecting line Impact Fee.
 - 6.1.6.4 If the Town decides that sewer lines will not be run in specified areas of the Town, then no Impact Fee can be allocated to developments in this area. If at a later date the Town decides to include these areas in the sewer system, then a Special Improvement District will be implemented to collect the full cost of the additional line. The cost to each dwelling and business in the SID must include a prorated cost for the treatment system and the main collection line.
 - 6.1.6.5 Hook-up fees must be determined to ensure that the Town maintains an income sufficient to cover all costs of operating the treatment plant, maintaining the treatment plant and replacement costs for the equipment. Hook-up fees are not Impact Fees.
- 6.1.7 Each Capital Facility Plan and Impact Fee Analysis must describe how commercial properties will be charged Impact Fees. This must be separated by the type of commercial properties as some would require more services of

a given type than others. Example: A Motel would use more water and sewer facilities than a storage unit, where a restaurant would require more services per square foot than a grocery store.

6.2 **Calculation.**

- 6.2.1 Upon receipt of an application for a building permit or a request for final subdivision approval, the Town Official shall determine if Impact Fees apply to the project under the following conditions:
 - 6.2.1.1 Whether it is a residential or non-residential activity,
 - 6.2.1.2 The class of residential or nonresidential development, and if residential, the number of dwelling units,
 - 6.2.1.3 If nonresidential, the intensity of development, and
 - 6.2.1.4 The Impact Fee district in which the proposed project is located.
- 6.2.2 After making these determinations, the Town Official shall determine the demand for Capital Facilities required by the proposed Development Activity and calculate the applicable Impact Fee, multiplying the demand of the proposed impact-producing development by the Impact Fee per demand unit, as set forth in the calculation methodology.
- 6.2.3 If the type of Development Activity is not expressly listed in the specific Impact Fee Ordinance, the Town Official shall:
 - 6.2.3.1 Identify the most similar land use type listed and calculate the Impact Fee based on the Impact Fee per demand unit for that land use, or
 - 6.2.3.2 Identify the broader land use category within which the specific land use would fit and calculate the Impact Fee based on the Impact Fee per demand unit for that land use category.
- 6.2.4 If neither of the alternatives set forth above are appropriate, the demand may be determined by the Town Council by amending the appropriate Capital Facility Plan and Impact Fee Analysis by adding the calculation method for the undefined type of development..
- 6.2.5 The calculation of Impact Fees due from a multiple-use impact-producing Development Activity shall be based upon the aggregated demand for each Capital Facility generated by each land use type in a proposed development.
- 6.2.6 The calculation of Impact Fees due from a phased Development Activity shall be based upon the demand generated by each phase for which subdivision development approval or building permit applications are received.

6.2.7 All Impact Fees shall be calculated based on the Impact Fee per demand unit in effect at the time of new subdivision plat approval or building permit issuance.

6.3 Credits.

6.3.1 Credits against the amount of an Impact Fee due from a proposed Development Activity shall be provided for the dedication of land and/or the provision of Capital Facilities that are System Improvements by an Applicant prior to the date an Impact Fee would normally be assessed for that category of Impact Fee so long as the following factors are met:

6.3.1.1 The costs of such land or facilities have been included in the fee calculation methodology for the applicable category of capital facilities; or

6.3.1.2 The land dedicated or capital facilities provided is determined by the Town Council to be a reasonable substitute for the cost of facilities which are included in the applicable fee calculation methodology.

6.3.2 Applications for credit shall be made to the Town Council and shall be submitted at or before the time of a new subdivision approval building permit application based on the type of Impact Fee. The application for a credit shall be accompanied by relevant documentary evidence indicating the eligibility of the applicant for the credit. When an application for a credit accompanies an application for a new subdivision final approval or a building permit, the Town Official shall calculate the applicable Impact Fee without any credit. Any credit determined appropriate by the Town Council shall be applied against the Impact Fee calculation to be due; however, in no event shall a credit be granted in an amount exceeding the Impact Fee due. Credits may not be transferable among Impact Fee Categories.

6.3.3 Credits for dedication of land or provision of Capital Facilities shall be applicable only against Impact Fees for the same category of Capital Facilities. If the value of the dedication of land or provision of Capital Facility exceeds the Impact Fee due for that Capital Facility category, the excess value may not be transferred to Impact Fees calculated to be due from the applicant for other categories of capital facilities nor may the excess value be transferred to other applicants or properties. If the Town has issued Credit Certificates to developers or individuals in accordance with a document approved by the Town Council, these credits are transferable but may not be redeemed for cash. Credit Certificates may not be transferred among other Impact Fee Categories.

6.3.4 Developers that complete transportation "System Improvements" for which Impact Fees are imposed are entitled to a credit toward the Impact Fee they would pay up to the amount of expenditure they made for the "System Improvements"; however, in no event shall a credit be granted in an amount exceeding the Impact Fee due.

6.4 **Collection.**

6.4.1 The Town shall collect all applicable Impact Fees at the time of final subdivision plat approval or building permit issuance unless:

6.4.1.1 The applicant is determined to be entitled to a credit, at which time they will be required to pay the difference between the Credit and the Impact Fee actually owed; or

6.4.1.2 The applicant is not subject to the payment of Impact Fees.

7.0 Establishment of Impact Fee Accounts; and Appropriation of Impact Fee Funds

7.1 **Impact Fee Accounts.** An Impact Fee account shall be established by the Town for each category of Capital Facilities for which Impact Fees are collected. All Impact Fees collected by the Town shall be deposited into the appropriate Impact Fee account, which shall be interest bearing. All interest earned shall be considered funds of the account. The funds of these accounts shall not be co-mingled with other funds or revenues of the Town. The Town shall establish and implement necessary accounting controls to ensure that the Impact Fee funds are properly deposited and appropriated in accordance with this Ordinance and other applicable legal requirements.

7.2 **Appropriation of Impact Fee Funds;**

7.2.1 **General.** Impact Fee funds may be appropriated for Capital Facilities and for the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the Town to finance capital facilities.

7.2.2 **Appropriations and Encumbrances.** Impact Fees shall be appropriated or encumbered only for the category of Capital Facility for which they were imposed, calculated and collected, and within six (6) years of the beginning of the Fiscal Year in which the fees were collected. Impact Fees shall not be appropriated for funding maintenance, operation or repair of capital facilities.

7.2.3 **Appropriation of Impact Fee Funds beyond Six (6) Years of Collection.** Notwithstanding this Section, Impact Fee funds may be appropriated or encumbered beyond six (6) years from the beginning of the Fiscal Year in which the fees were collected if the appropriation is for Capital Facility which requires more than six (6) years to plan, design, finance and construct. The Town Council shall identify in writing the reason for the appropriation of Impact Fee funds beyond six (6) years of collection, and establish a date certain for their expenditure.

7.3 **Procedure for Appropriation of Impact Fee Funds.**

7.3.1 The Town Council, as part of the annual budget process, will identify Capital Facility projects anticipated to be funded in whole or in part with Impact Fees. The Town Council shall specify the nature of the Capital Facility, its

location, the system capacity added by the improvement, the service area of the improvement, and the timing of completion of the improvement.

- 7.3.2 The Town Council may authorize Impact Fee-funded capital facilities at such other times as may be deemed necessary and appropriate. Such capital facilities shall also be described, as set forth above.
- 7.3.3 The Town Council shall verify that adequate Impact Fee funds are, or will be, available from the appropriate Impact Fee accounts for the proposed capital facilities.

8.0 Refunds

- 8.1 **Application Required.** For efficiency in the processing of refunds the applicant is required to file a written request for a refund with the Town Council and provide the necessary information as identified herein. Except as provided, refunds shall be made only to the current owner of property on which the Development Activity was proposed or occurred.
- 8.2 **Payment.** Refunds shall only be made following an affirmative action by the Town Council with the finding that:
 - 8.2.1 The developer will not proceed with the project and has filed a written request for a refund.
 - 8.2.2 The fees have not been appropriated, encumbered or spent, and
 - 8.2.3 That no impact has resulted.
- 8.3 **Interest Payable.** All Impact Fee refunds authorized by an affirmative vote of the Town Council shall include a pro rata share of interest earned by the applicable Impact Fee account calculated at the average annual rate of interest for the period the applicant's Impact Fees were in the account.
- 8.4 **Eligibility for Refund:**
 - 8.4.1 **Expiration or Revocation of Building Permit.** An applicant who has paid an Impact Fee for a proposed impact-producing Development Activity for which the applicable building permit has been revoked shall be eligible to apply for a refund of Impact Fees paid. Any refund would be based on the applicant proving that his development has not had an impact on the Town's Capital Facilities and that no Impact Fees were expended because of his development.
 - 8.4.2 **Failure of the Town to Appropriate Impact Fee Funds Within Time Limit.** An applicant may apply for a refund of Impact Fees paid if the Town has failed to appropriate or encumber the Impact Fees collected within the time limits established in this Ordinance.

- 8.4.3 **Abandonment of Development after Initiation of Construction.** An applicant who has paid an Impact Fee for a proposed impact-producing Development Activity for which a subdivision plat has been approved, a building permit has been issued, construction has been initiated but which is abandoned prior to subdivision completion and has not received an issuance of a certificate of occupancy or acceptance by the Town, shall not be eligible for a refund unless the uncompleted building is completely demolished and removed, or in the case of a subdivision, that any connections into Capital Facilities have been removed as directed by the Leeds Town Council and providing that the Town has not spent Impact Fees to accommodate the development.
- 8.5 **Processing of Applications for Refunds.** Applications for a refund shall include all information required by section 8.6 or Section 8.7 whichever is applicable. Upon receipt of a completed application for a refund, the Town Council shall review the application and all documentary evidence submitted by the applicant, as well as such other information and evidence as may be deemed relevant, and make a decision by majority vote of whether a refund is due.
- 8.6 **Applications due to abandonment.** Applications for refunds due to abandonment shall be made within sixty (60) days following expiration or revocation of the development permit or demolition of the structure and disconnection from Capital Facilities if so directed by the Leeds Town Council. The applicant shall submit:
- 8.6.1 Evidence that the applicant is the property owner or the duly designated agent of the property owner,
- 8.6.2 The amount of the Impact Fees paid and receipts evidencing such payments, and
- 8.6.3 Documentation evidencing the expiration or revocation of the development permit or demolition of the structure.
- 8.6.4 Documentation evidence that the property is no longer utilizing Capital Facilities as directed by the Leeds Town Council.
- 8.6.5 Documentation showing that the Town did not spend impact funds to accommodate the development.
- 8.6.6 Documentation showing the refund is not based on a Credit Certificate which has no cash value.
- 8.7 **Applications due to time limits.** Applications for refunds due to the failure of the Town to appropriate fees collected within the time limits established in this Ordinance shall be made within ninety (90) days following the expiration of such time limit. The applicant shall submit:
- 8.7.1 Evidence that the applicant is the property owner or the duly designated agent of the property owner,

- 8.7.2 The amount of the Impact Fee paid and receipts evidencing the Impact Fee payments, and
- 8.7.3 Proof and documentation that the Town did not appropriate or encumber Impact Fees in accordance with an approved Capital Facility Plan.

9.0 Appeals

- 9.1 An appeal from any decision of the Town Council pursuant to their Ordinance shall be made in writing within thirty (30) days to the Board of Adjustment. Within thirty (30) days from the date the appeal is filed, the appeal authority shall:
 - 9.1.1 Conduct an appeal hearing, and
 - 9.1.2 Make a final decision on the appeal. The appeal authority will ensure that all minutes, findings, orders, transcripts and other materials are correct and represent the true and complete record of the proceedings of the appeal hearing. If the notice of the appeal is accompanied by a bond or other sufficient surety satisfactory to the Town Attorney in an amount equal to the Impact Fee due, the application for a building permit for the Development Activity may be issued by the Town. The filing of an appeal shall not stay the collection of the Impact Fee due unless a bond or other sufficient surety has been provided.
- 9.2 **Burden of proof.** The burden of proof shall be on the applicant to demonstrate that the decision of the Town Official is erroneous.

10.0 Conflicts.

Neither this Ordinance nor any applicable specific Impact Fee Ordinance shall affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards or other applicable standards or requirements of the Town. To the extent of any conflict between other Town Ordinances or regulations and this Ordinance, the more restrictive is deemed to be controlling.

11.0 Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

ORDINANCE NUMBER 2007-06 SHALL TAKE EFFECT IMMEDIATELY.

PASSED AND ADOPTED THIS 28th DAY OF MARCH, 2007.

TRUDY LAW, MAYOR TOWN OF LEEDS

Attest:

KAREN MARKOVICH, CLERK/RECORDER

ROLL CALL VOTE: _____REQUIRED _____NOT REQUIRED

MAYOR TRUDY LAW _____AYE _____NAY

COUNCIL MEMBERS:

DALE BARNES _____AYE _____NAY

DAVE HARBOUR _____AYE _____NAY

FRANK LOJKO _____AYE _____NAY

JARED WESTHOFF _____AYE _____NAY

AYE VOTES _____ NAY VOTES _____ ABSTENTIONS _____.

ORDINANCE #2007-06 IS _____PASSED _____REJECTED

KAREN MARKOVICH, CLERK/RECORDER