

## **ORDINANCE NO. 14-04**

### **AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, VACATING CITY UTILITY EASEMENTS LOCATED AT FORMER LOTS 10, 11, AND 12 OF HIDDEN CREEK SUBDIVISION; AND ESTABLISHING AN EFFECTIVE DATE.**

#### **SECTION I - RECITALS**

WHEREAS, the City of SOUTH OGDEN City (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, in conformance with Utah Code (“UC”) §10-3-717, the governing body of the city may exercise all administrative powers by resolution; and,

WHEREAS, in conformance with UC §10-3-702, the governing body of the city may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and,

WHEREAS, the City Council finds that in conformance with UC Title 10 it may pass an ordinance to vacate, narrow, or change utility easements within the city or otherwise manage or dispose of city property; and,

WHEREAS, the City Council finds that in conformance with UC Title 10, on its own initiative, it may enact an ordinance declaring a street, alley, or a part of a street or alley or utility easement is vacated; and,

WHEREAS, the City Council finds, and has determined, in conformance with UC Title 10, that: there is good cause for the vacating the easements described herein and, further, that the vacating or narrowing of this easement will not be detrimental to the public interest; and,

WHEREAS, the City Council finds that in conformance with UC Title 10, that notice of the intention of the City Council to vacate this easement, or part, has been given as provided in the UC §10-9a-609.5, or other applicable statute or requirement; and,

WHEREAS, the City Council finds that in conformance with UC Title 10, that intention of the governing body of the city to vacate the easement described, and the notice required for action on such question has been given by publishing in a newspaper published or of general circulation in the City as required preceding action on such intention, i.e. the *Standard Examiner*; and,

WHEREAS, the City finds that certain exigencies of city governmental operations require these actions be taken;

#### **SECTION II - EASEMENT VACATED**

**Now Therefore, Be It Ordained** By The City Council Of South Ogden City That The Utility Easements In Favor Of South Ogden City, Existing Between Former Lots 10, 11,

And 12 Of The Hidden Creek Subdivision, And More Particularly Described In Attachment "A" Should Be And The Same Are Hereby Vacated And Abandoned Subject Only To The Exceptions As Otherwise Provided Therein.

**Be It Further Ordained,** That Notwithstanding The City's Vacation And Relinquishment Of The Easements As Described Above, Nothing Herein Shall Be Deemed Or Construed To Act So As To Diminish, Restrict Or Extinguish The Right Of Way And Easements Otherwise Existing Appurtenant To These Vacated Easements, If Any, Of Any Lot Owner Or The City, Nor Shall The Franchise Rights Of Any Public Utility Be Impaired Thereby.

**SECTION III - PRIOR ORDINANCES AND RESOLUTIONS:**

The body and substance of any and all prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

**SECTION IV - REPEALER OF CONFLICTING ENACTMENTS:**

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which are in conflict with this Ordinance, are, to the extent of such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

**SECTION V - SAVINGS CLAUSE:**

If any provision of this Ordinance shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of South Ogden City.

**SECTION VI - DATE OF EFFECT**

This Ordinance shall be effective on the 20<sup>th</sup> day of May, 2014, and after publication or posting as required by law.

DATED this 20<sup>th</sup> day of May, 2014

SOUTH OGDEN, a municipal corporation

by: \_\_\_\_\_  
James F. Minster, Mayor

Attested and recorded

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Leesa Kapetanov, City Recorder