

ORDINANCE NO. 15-26

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, AMENDING THE CITY'S CULINARY WATER STORAGE AND DISTRIBUTION CAPITAL FACILITIES PLAN IN CONFORMANCE WITH THE PROVISIONS OF UCA § 11-36-201 ET. SEQ., AND CONFIRMING AND ADOPTING THE FINDINGS OF THE CITY'S CULINARY WATER CAPITAL FACILITIES PLAN AND IMPACT FEE ANALYSIS DATED DECEMBER, 2015; AND ESTABLISHING AN EFFECTIVE DATE FOR THESE CHANGES.

BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH AS FOLLOWS:

Section 1. Recitals

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

WHEREAS, the City Council finds that in conformance with UCA §10-3-717, the governing body of the city may exercise all administrative powers by resolution; and,

WHEREAS, the City Council finds that in conformance with ,and UCA §10-3-701, 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 UCA §11-36a-201 et.seq., the City Council finds that the City is authorizes to enact and promulgate certain impact fees within the city; and,

WHEREAS, the City Council finds that in conformance with UCA §11-36a-301 et.seq, the City Council finds that impact fees may be imposed within the city must be in conformance with and as supported and justified in need and amount by the City's Culinary Water Capital Facilities Plan and Impact Fee Analysis; and,

WHEREAS, the City Council finds that in conformance with UCA §11-36a-301, the City Council finds that a Culinary Water Storage and Distribution Capital Facilities Plan has been adopted by the City following a public hearing before the City Council; and,

WHEREAS, the City Council finds that in conformance with UCA §11-36a-301, the City Council finds that its Culinary Water Storage and Distribution Capital Facilities Plan should be amended, and that such amendments have been made by the City's Consulting Engineers, Wasatch Civil Consulting Engineering, by way of a "Culinary Water Capital Facilities Plan and Impact Fee Analysis" dated as of December, 2015, which update has now been the subject of a public hearing before the City Council; and,

WHEREAS, the City Council finds that in conformance with UCA §11-36a-304, the City's Culinary Water Capital Facilities Plan and Impact Fee Analysis, as now amended, identifies the: (i) demands placed upon existing public facilities by new development activity; and (ii) the proposed means by which the City will meet those demands; and,

WHEREAS, the City Council finds that, based on its Culinary Water Capital Facilities Plan and Impact Fee Analysis that its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne, compared to the benefits already received and yet to be received; and,

WHEREAS, the City Council finds that the City has prepared a written analysis as a part of its Culinary Water Capital Facilities Plan and Impact Fee Analysis of each impact fee it intends to implement which (i) identifies the impact on system improvements required by identified development activity; (ii) demonstrates how those impacts on system improvements are reasonably related to the development activity; (iii) estimates the proportionate share of the costs of impacts on system improvements reasonably related to the new development activity; and (iv) based upon those factors and the requirements of UCA §11-36a-304 et. Seq., identifies how the impact fee was calculated; and,

WHEREAS, the City Council finds that in analyzing whether the proportionate share of the costs of public facilities are reasonably related to the new development activity, the City has identified: (i) the cost of existing public facilities; (ii) the manner of financing existing public facilities, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants; (iii) the relative extent to which the newly developed properties and the other properties in the City have already contributed to the cost of existing public facilities, by such means as user charges, special assessments, or payment from the proceeds of general taxes; (iv) the relative extent to which the newly developed properties and the other properties in the City will contribute to the cost of existing public facilities in the future; (v) the extent to which the newly developed properties are entitled to a credit because the City is requiring their developers or owners, by contractual arrangement or otherwise, to provide common facilities, inside or outside the proposed development, that have been provided by the City and financed through general taxation or other means, apart from user charges, in other parts of the municipality; (vi) extraordinary costs in servicing the newly developed properties; and (vii) the time-price differential inherent in fair comparisons of amounts paid at different times; and,

WHEREAS, the City Council finds that the Culinary Water Capital Facilities Plan and Impact Fee Analysis developed and adopted by the City, in the now amended form is based on and considers each requirement; and,

WHEREAS, the City Council finds that the City may not impose impact fees that exceed the highest fee justified by the impact fee analysis performed under UCA §11-36a-401(b); and,

WHEREAS, the City Council finds under UCA §11-36a-305 that in calculating the impact fee, the City may include: (i) the construction contract price; (ii) the cost of acquiring land, improvements, materials, and fixtures; (iii) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and (iv) debt service charges, if the City might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements; and,

WHEREAS, the City Council finds that the City has caused to be developed and adopted an amended Culinary Water Capital Facilities Plan and Impact Fee Analysis that addresses and meets each of these immediately above-listed criteria; and,

WHEREAS, the City Council finds that the City has chosen, in conformance with UCA §11-36a-301 to prepare and adopt an Independent Culinary Water Capital Facilities Plan and Impact Fee Analysis rather than including a capital facilities element in the City's general plan; and,

WHEREAS, the City Council finds that the City has given public notice of the proposed Culinary Water Capital Facilities Plan and Impact Fee Analysis and has provided a copy of the plan to the public at least 14 days before the date of the public hearing on the plan; and,

WHEREAS, the City Council finds that the City has held a public hearing to hear public comment on the plan under the notice and hearing requirements of UCA §10-9a-205; and,

WHEREAS, the City Council finds that prior to enacting an impact fee, the City must establish one or more service areas within which it shall calculate and impose impact fees for various land use categories; and,

WHEREAS, the City Council finds that UCA §11-36a-601 requires special individualized accounting for impact fees; and,

WHEREAS, the City Council finds that the City seeks to comply with current statutory requirements; and,

WHEREAS, the City Council finds and the City recognizes that impact fees should be reviewed regularly and adjusted for inflation and changing economic conditions; and,

WHEREAS, the City Council finds and the City recognizes that the Building Cost Index as published by the Engineering News Record is an acceptable and appropriate escalation factor indicator to be utilized in the annual review of impact fees;

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue and requires the adoption of the Culinary Water Storage and Distribution Capital Facilities Plan by the City; now,

THEREFORE, BE IT ORDAINED by the City of SOUTH OGDEN as follows:

Section 2. Culinary Water Capital Facilities Plan and Impact Fee Analysis Adopted:

Based on and in consideration of the above-listed findings of the City Council and the data contained in the City's **Culinary Water Capital Facilities Plan and Impact Fee Analysis**, together with the requirements of state law, there is reconfirmed, a **Culinary Water Storage and Distribution Impact Service Area** which area is described by the geographic boundary of the City of South Ogden, Utah, as constituted and as those boundaries may, from time to time, be lawfully modified and the City's **Culinary Water Capital Facilities Plan and Impact Fee Analysis**, as amended as of December, 2015, and by this reference fully incorporated, is adopted in toto.

Section 3. Culinary Water Storage and Distribution Impact Fee Enacted:

That based on and in consideration of the above-listed findings of the City Council and the data contained in the City's **Culinary Water Capital Facilities Plan and Impact Fee Analysis**, the City Council finds there should be, and there are enacted, **Culinary Water Storage and Distribution Impact Fees**, as set out below:

- Single Family Dwellings \$486.57/ERU
- Commercial and other non-residential uses will be determined for each site individually and will be based on the estimated water use as compared with a typical residence.

NOTE: These fees and the rational upon which they are based are more fully set out in the “City’s Culinary Water Capital Facilities Plan and Impact Fee Analysis” of December, 2015, incorporated by this reference as if fully set out.

BE IT FURTHER ORDAINED this Ordinance, and the adopted **Culinary Water Capital Facilities Plan and Impact Fee Analysis**, shall become effective 90 days after adoption as required by law.

DATED this 1st day of December, 2015

SOUTH OGDEN, a municipal corporation

by: _____
Mayor James F. Minster

Attested and recorded

Leesa Kapetanov
City Recorder