

**ORDINANCE NO. 17-04**

**AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING  
TITLE 10 OF THE CITY CODE BY CREATING AND ADOPTING 11-3-1-G:  
DEVELOPMENT AGREEMENTS; MAKING NECESSARY LANGUAGE  
CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES; AND  
ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.**

**Section 1 - Recitals:**

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

WHEREAS, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, the City Council finds that in conformance with UC §10-3-717, and UC §10-3-701, the governing body of the city has previously adopted a City Code which deals with Zoning Regulations within certain zones for the city and related issues; and,

WHEREAS, the City Council finds that South Ogden City Code, at **Title 11, Chapter 1, Section 3** provides definitions related to zoning and development matters and that **Title 11, Chapter 3, Section 1** deals with regulations, procedures, and other development issues within certain zones of the city, having to do with development design standards and General Provisions for Various Zones in the City, and that certain additions or changes should be made, based on advice and recommendation of the city Planning Commission and in conformance with the authority granted to the City by UCA Title 10, by adding a new paragraph **G** creating authority for the use and implementation of **Development Agreements** within the City; and,

WHEREAS, the City Council finds it is in the public interest to manage and regulate the procedures governing these zoning regulations, procedures, and other issues for Development Agreement approval process for various zones in the City; and,

WHEREAS, the City Council finds that the requirements and provisions herein should be effective upon passage of this Ordinance; and,

WHEREAS, the City Council finds that the public safety, health and welfare is at issue and requires action by the City as noted above;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH** that these changes to the City Code are adopted as set out below:

**11-1-3: Definitions** is amended to add the following:

**DEVELOPMENT AGREEMENT:** An agreement executed between the City and an Developer, used and considered by the City Council, upon recommendation of the Planning Commission as a method of providing the city with additional control and flexibility in the approval of development projects by tailoring development standards and requirements to the unique features of a particular development site.

**11-3-1: GENERAL PROVISIONS** is amended to add a new paragraph G to read as follows:

**11-3-1-G: DEVELOPMENT AGREEMENTS:**

**1 – Purpose:**

The purpose of this chapter is to more fully implement the general plan and the purposes of all land use ordinances. A development agreement may be considered by the city council ("council"), upon recommendation from the planning commission ("commission") as a method of providing the city with additional control and flexibility in the approval of development projects by tailoring development standards and requirements to the unique features of a particular development site.

**2– Eligibility:**

Persons entering into a development agreement with the council must have a legal or equitable interest in the property that is the subject of the development agreement.

**3– Contents:**

All development agreements entered into by the council shall specify and contain, as a minimum, the following sections:

1. Duration of agreement.
2. Description of the subject property.
3. Allowed uses.
4. Maximum density or intensity of the allowed uses and construction requirements.
5. A subdivision layout or site plan identifying the location and arrangement of all allowed uses, circulation patterns, and all required dedications and improvements.
6. A phasing schedule for all project phases and the timing for the provision of all features, dedications, and improvements.

7. Other conditions, terms, restrictions, and requirements for subsequent actions and approvals.

#### **4—Public Hearing Required and Required Notice:**

- a. A public hearing to consider a development agreement application shall be held by the commission prior to making a recommendation to the council. The procedures for the consideration of an application for a development agreement shall be those procedures for the consideration of a general plan amendment application.
- b. The required notice shall be the notice required for the consideration of a general plan amendment application. At the discretion of the commission, the required public hearing for the consideration of a development agreement application may be held concurrently with any other required public hearing.

#### **5— Form and Consistency:**

A development agreement shall be approved by the council by ordinance, following the receipt of a commission recommendation, with a finding that the development agreement is consistent with the general plan.

#### **6— Applicable Provisions, Regulations, and Policies:**

Unless otherwise modified by a development agreement, all provisions, regulations, and policies governing the uses of the land, density, design, and improvement and construction standards and specifications and all other requirements and regulations of all land use ordinances in effect at the time of the execution of the agreement shall apply. A development agreement shall not prevent the city from subsequent actions applicable to the property that is the subject of a development agreement from applying any new provisions or regulations that do not conflict with those contained within the development agreement.

#### **7— Periodic Review and Modification or Termination:**

The zoning administrator shall review a development agreement at least every twelve (12) months, at which time the applicant, or the applicant's successor, shall be required to demonstrate good faith compliance with the terms of the development agreement. If the zoning administrator finds, based on the evidence, that the applicant has not complied in good faith with all terms or conditions of the agreement, the zoning administrator shall recommend to the council that the agreement be modified, or terminated. If the council concurs, the agreement may be modified or terminated by the council. Proceedings before the council to consider modification or termination of an agreement shall include a noticed public hearing complying with the notice requirements for a general plan amendment application.

#### **8— Amendment or Cancellation:**

In addition to provisions of section 7, above, of this chapter, a development agreement may be amended or canceled in whole, or in part, by mutual consent of the parties to the agreement, or their successors.

**9— Recording of a Development Agreement:**

No later than ten (10) days after the council approves a development agreement application, the city recorder shall record the development agreement, as approved, in the office of the Weber County recorder. The recorded copy of the development agreement shall be considered the official copy of said agreement. The benefits, rights, and obligations of a development agreement shall be binding upon, and shall inure to all successors to the original parties to the agreement.

**10— Modification or Suspension to Comply with State or Federal Laws:**

In the event that federal or state laws or regulations, enacted after the adoption of a development agreement, prevent or preclude compliance with one or more provisions of the agreement, such provisions of the agreement shall be modified, or suspended, as may be necessary to comply with such federal or state laws or regulations.

**11— Reversion of Zoning in the Event of Noncompliance:**

In the event a development agreement is terminated, as provided by sections 7 & 8, above, of this chapter, the land use ordinance and zoning district map requirements for the subject property shall revert to those that existed prior to the enactment of the development agreement; or, as the zoning would have existed in the absence of the development agreement.

**Section 2 - 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 conflict with this Ordinance, are, for such conflict, repealed, except this repeal will not be construed to revive any act, order or resolution, or part, repealed.

**Section 3 - Prior Ordinances and Resolutions:**

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

**Section 4 - Savings Clause:**

If any provision of this Ordinance be held or deemed or shall be invalid, inoperative or unenforceable such reason will not render 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 5 - Date of Effect**

This Ordinance will be effective on the 7<sup>th</sup> day of February, 2017, and after publication or posting as required by law.

DATED this 7<sup>th</sup> day of February, 2017

SOUTH OGDEN, a municipal corporation

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

Attested and recorded

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Leesa Kapetanov, CMC  
City Recorder