

## Ordinance 4-02-2015

**AN ORDINANCE AMENDING CERTAIN PORTIONS OF THE SANTAQUIN CITY CODE PERTAINING TO WATER DEDICATION REQUIREMENTS, PROVIDING FOR CODIFICATION, INCLUSION IN THE CODE, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Santaquin is a fifth class city of the state of Utah; and

**WHEREAS**, cities in the state of Utah are authorized by the Legislature to regulate the use and development of lands including providing infrastructure services such as water, sewer, irrigation, roads, and parks; and

**WHEREAS**, Santaquin City operates and maintains a public water system for the benefit of residents, businesses, and visitors in the community; and

**WHEREAS**, the City Council finds it is necessary to modify the city's water dedication requirements in order to have sufficient water supply and delivery systems for future growth and developments in the city.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SANTAQUIN, UTAH, AS FOLLOWS:**

### **Section I.**

Santaquin City Code, Section 8-1-10 Annexation is hereby amended as follows:

*(underlined text is added, stricken text is to be deleted)*

#### **8-1-10 ANNEXATION-WATER DEDICATION REQUIREMENTS:**

It is the intent that development of land within or annexed to the city be accompanied by water rights sufficient to accommodate the needs of the existing and potential occupants of said land. The water rights conveyance requirement ~~of annexation~~ shall be in addition to any requirement that may be imposed upon development of the land ~~after annexation~~ and shall apply to all property annexed regardless of whether the owner of the property signed the annexation petition.

##### **A. Amount Of Water Required:**

1. Except as otherwise provided in this section, all persons developing and/or subdividing land within Santaquin City limits, shall dedicate to the city water rights or shares sufficient for the city to meet the future water needs expected to result from the development of the property.
2. Except as otherwise provided in this section, all persons annexing land into Santaquin City shall dedicate to the city water rights or shares sufficient for the city to meet the

future water needs expected to result from the development of the property to be annexed.

3. The amount of water to be dedicated shall be a minimum of 3.00 acre-feet of diversion rights per acre in its undeveloped state. Additional water will be required if a development will utilize more than the 3.00 acre-feet per acre amount per year. Water requirements for Mixed-use or non-residential developments will be considered on a case-by-case basis. All water usage calculations and requirements shall be provided by the City Engineer as part of Preliminary Plat or development review processes.
4. If a change of use on a property occurs (e.g. residential to commercial or commercial to more intense commercial), the amount of water required under paragraph 3 shall be re-evaluated and the person(s) requesting the change in use shall provide any additional water necessary to accommodate the change as determined by the City Engineer.

B. Condition and Acceptability of Water:

1. The water must be approved by the Utah division of water rights: a) for diversion from one or more of the city's sources, or from another source acceptable to the city at its sole discretion; and b) for municipal use within the city's service area. The city shall have sole discretion as to the acceptability of the quantity and quality of the water as well as the suitability of the water right or water shares. The city will cooperate with the property owner in filing the required applications with the Utah division of water rights, but the property owner shall be solely responsible for prosecuting any such applications and the city reserves the right to protest any applications which may interfere with its existing rights.
2. The costs associated with the transfer of water to, and approval of use, by the city, shall be borne by the annexing developing party.

BC. Acceptance Of Cash Equivalent Of Water Rights: The city may, at its discretion, accept the cash equivalent in value of the cost of water rights and/or shares required to be dedicated. The equivalent consideration will be based upon the most recent information of similar water sales available to the city. Any approvals to pay cash in lieu of dedicating water must be given as part of a Preliminary Plat approval process or prior to final approval of developments where platting is not required. The number of water rights, shares or the amount of the cash equivalent shall be determined by the expected water needs of the annexation area based in part on the total number of acres located within the annexation area and the portion owned by the person making application.

CD. Continued Use: All water which is represented by water rights or water shares acquired by the city District pursuant to this section, which rights have heretofore been used to supply irrigation water on land so annexed, may continue to be used to supply irrigation

~~water on land so annexed, subject to written agreement between the District and the landowner. payment of the applicable irrigation assessments and any related costs incurred by the city, until said land shall be developed or used for nonagricultural purposes or until the use of said water on said land shall be abandoned for irrigation purposes. Upon a change in land use or abandonment of said water rights, all rights of the property owner shall terminate and the city shall control the use of such water rights or shares. The continued use of said water shall be secured through written agreement between the city and the landowner.~~

~~D. Lands Owned By State And Federal Agencies: Whenever lands owned by either the state of Utah or the federal government, including any of their agencies or political subdivisions, are proposed for annexation, the city council may waive the water rights requirements when the use of the land will not require the providing of culinary or secondary water by the city.~~

E. Time Of Conveyance:

1. Prior to Final Approvals. All necessary water right application approvals must be obtained and the ownership transfer must be completed prior to the approval of any ~~preliminary~~Final plat, site plan, or the issuance of any building permit related to the subject property. In order to comply with the water dedication requirements by payment of the cash equivalent to water rights, the property owner must pay the entire cash equivalent, in the amount determined by the city, prior to the approval of any ~~preliminary~~Final plat or site plan for development, or the issuance of any building permit.

2. Agriculture Developments. For platted areas zoned and utilized for agriculture use and which remain on private irrigation systems, but where residential connections are made to the City culinary system, the amount of water to be dedicated shall be equivalent to state average residential indoor water usage until such time as the associated farming operations change use, are further developed/platted, or connection to the public irrigation system is made to the benefit of the residential use on the property, at which point the full amount of water required per platted acre of development shall be turned over to the City.

**Section II.** Contrary Provisions Repealed. Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.

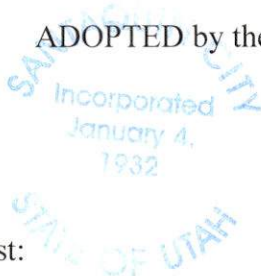
**Section III.** Codification, Inclusion in the Code, and Scrivener's Errors. It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Sections of the ordinance may be re-numbered or re-lettered. Typographical errors which do not


affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

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

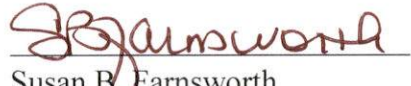
**Section V.** Posting and Effective Date. Prior to 5:00 p.m. on, the City Recorder shall: (a) deposit a copy of this ordinance in the official records of the City; and (b) post a copy of this ordinance in three places within the City. This ordinance shall become effective at 5:00 p.m. on April 16, 2015

ADOPTED by the Santaquin City Council on the 15<sup>th</sup> day of April, 2015.



  
\_\_\_\_\_  
Mayor Kirk Hunsaker

Attest:

  
\_\_\_\_\_  
Susan B. Farnsworth  
Santaquin City Recorder

Council Member Keith Broadhead  
Council Member Matt Carr  
Council Member David Hathaway  
Council Member Amanda Jeffs  
Council Member Nick Miller

Aye  
absent  
Aye  
Aye  
Aye

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

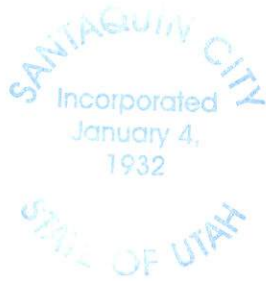
I, SUSAN B. FARNSWORTH, City Recorder of Santaquin City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Santaquin City, Utah, on the 1<sup>st</sup> day of April, 2015, entitled

**“AN ORDINANCE AMENDING CERTAIN PORTIONS OF THE SANTAQUIN CITY CODE PERTAINING TO WATER DEDICATION REQUIREMENTS”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Santaquin City Utah this 15<sup>th</sup> day of April, 2015.

  
\_\_\_\_\_  
SUSAN B. FARNSWORTH  
Santaquin City Recorder

(SEAL)



AFFIDAVIT OF POSTING

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, SUSAN B. FARNSWORTH, City Recorder of Santaquin City, Utah, do hereby certify and declare that I posted in three (3) public places the ordinance which is attached hereto on the 16<sup>th</sup> day of April, 2015.

The three places are as follows:


1.     Zions Bank
2.     Post Office
3.     City Office

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

  
\_\_\_\_\_  
SUSAN B. FARNSWORTH  
Santaquin City Recorder

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2015, by SUSAN B. FARNSWORTH.

My Commission Expires: 10-1-17

  
\_\_\_\_\_  
Notary Public



Residing at:             Utah County