

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council and the Redevelopment Agency (RDA) of Tooele City will meet in a Work Meeting, on Wednesday, November 1, 2023, at 5:30 p.m. The meeting will be held in the Tooele City Hall Council Chambers, located at 90 North Main Street, Tooele, Utah. The complete public notice is posted on the Utah Public Notice Website www.utah.gov, the Tooele City Website www.tooelecity.org, and at Tooele City Hall. To request a copy of the public notice or for additional inquiries please contact Michelle Pitt, City Recorder at (435)843-2111 or michellep@tooelecity.org

We encourage you to join the City Council meeting electronically by visiting the **Tooele City YouTube Channel**, at <https://www.youtube.com/@tooelecity> or by going to YouTube.com and searching "Tooele City Channel".

AGENDA

1. **Open City Council Meeting**
2. **Roll Call**
3. **Mayor's Report**
4. **Council Members' Report**
5. **Discussion Items**
 - a. **GivGroup Presentation on Missing-Middle Housing Opportunities**
Presented by Roger Baker, City Attorney, and GivGroup
 - b. **Resolution 2023-92 A Resolution of the Tooele City Council Making Technical Amendments to the Policy Allowing Payment of a Fee in Lieu of Water Rights Conveyance**
Presented by Roger Baker, City Attorney
 - c. **Introduction to Subdivision Process Amendments – Senate Bill 174**
Presented by Roger Baker, City Attorney
6. **Closed Meeting**
~ Litigation, Property Acquisition, and/or Personnel
7. **Adjourn**

Michelle Y. Pitt, Tooele City Recorder

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations should notify Michelle Y. Pitt, Tooele City Recorder, at 435-843-2111 or Michellep@Tooelecity.Org, prior to the meeting.

TOOELE CITY CORPORATION

RESOLUTION 2023-92

A RESOLUTION OF THE TOOELE CITY COUNCIL MAKING TECHNICAL AMENDMENTS TO THE POLICY ALLOWING PAYMENT OF A FEE IN LIEU OF WATER RIGHTS CONVEYANCE.

WHEREAS, Tooele City Code Chapter 7-26 governs the exaction by Tooele City of water rights as a condition of land use approval (see also UCA 10-9a-508); and,

WHEREAS, TCC Section 7-26-2(2) empowers the City Council to adopt a legislative policy allowing for the payment of a fee in lieu of water rights conveyance: “Fee-in-lieu. Pursuant to established City Council policy, in lieu of actual conveyance of water rights pursuant to this Chapter, certain development applicants may pay to the City an amount per acre-foot for access to water rights controlled by the City in a quantity necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system”; and,

WHEREAS, the City Council adopted the referenced fee-in-lieu policy in 2007, and revised the policy in 2008; and,

WHEREAS, on April 1, 2015, the City Council passed Resolution 2015-17, adopting an amended fee-in-lieu policy; and,

WHEREAS, on May 18, 2022, the City Council approved Resolution 2022-29, amending the fee-in-lieu policy and establishing the price per municipal acre-foot at \$35,000; and,

WHEREAS, on May 17, 2023, the City Council approved Resolution 2023-23, substantially amending the fee-in-lieu policy; and,

WHEREAS, the City Administration recommends additional minor amendments for clarification regarding application of the Policy to parcels of record:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the 2023 Policy is hereby amended as shown in Exhibit A, attached hereto and incorporated herein.

This Resolution is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this
____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

TOOELE CITY MAYOR

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, Tooele City Attorney

Exhibit A

Amended 2023 Policy

City Council Policy

RE: Payment of a Fee In Lieu Of Water Rights Conveyance under Tooele City Code §7-26-3(2).

Effective Date: November 1, May 17, 2023

Tooele City Code Chapter 7-26 requires the conveyance of water rights as a condition of approval of all land use applications. Section 7-26-3(2) states the following:

Fee-in-lieu. Pursuant to established City Council policy, in lieu of actual conveyance of water rights pursuant to this Chapter, certain development applicants may pay to the City an amount per acre-foot for access to water rights controlled by the City in a quantity necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system.

This City Council Policy is established pursuant to the legislative authority embodied in §7-26-3(2).

Residential Development. Beginning on the Effective Date, Tooele City will allow the owner(s) of an existing single-family parcels of record that, as of the Effective Date, is are not part of a recorded subdivision, and the owner(s) of a single-family lots subdivided ~~from those existing parcels~~ through a two-lot subdivisions (e.g., a lot split), to pay a fee (the “Fee”) per for the parcel or lot in lieu of the residential water right requirement established in TCC §7-26-2(1). The administrative departments are authorized to determine eligibility and to approve payment of the Fee for a single-parcel/single-lot residential development. The item for which the Fee is paid shall be known for purposes of this Policy as a Water Rights Credit or Credit.

Persons who are eligible under this Policy may purchase Credits by paying the Fee. Credits will be purchased on a first-come first-served basis. The Fee shall be paid in full prior to building permit issuance. Should a building permit for which the Fee was paid expire under the terms of the permit, the City will refund the Fee, minus a \$100 administrative service charge. A person who previously paid the Fee and received a Fee refund due to an expired building permit may submit a new building permit application and may again request to pay the Fee on a first-come first-served basis behind others who paid the Fee and whose building permits remain valid.

Non-residential Development. Beginning on the Effective Date, Tooele City will allow owners of a non-residential development project (“Project”) to request to pay the Fee if the Project is determined by the City to need less than 20 acre-feet of municipal water rights. Additional Credits may be made available, upon recommendation of the Public Works Director and Economic Development Director, and with written approval of the Mayor. A Request shall be in

writing from the property owner or agent and addressed to the City Council or Mayor. Approval of a request may be granted only after full consideration of the following criteria in relation to the amount of water used for the Project:

- The number of jobs the Project is anticipated to create, together with the nature of the jobs (e.g., full-time) and job compensation (e.g., wage levels, benefits).
- The amount of sales tax the Project is anticipated to generate.
- The amount of property tax the Project is anticipated to generate.
- The anticipated environmental and social benefits and impacts of the Project.

The Council may consider additional criteria as it thinks appropriate. Persons who are eligible under this Policy and approved by the City Council may purchase Credits by paying the Fee. Credits will be purchased on a first-come first-served basis. The Fee shall be paid in full prior to building permit issuance. Should a building permit for which the Fee was paid expire under the terms of the permit, the City will refund the Fee, minus a \$100 administrative service charge. A person who previously paid the Fee and received a Fee refund due to an expired building permit, or due to the approval sunseting, may submit a new building permit application and may again request to pay the Fee. If authorized by the City Council, the Credits may be purchased on a first-come first-served basis behind others who paid the Fee and whose building permits remain valid. The City Council may partially approve a request, for example, by authorizing 10 Credits out of 20 Credits requested.

Sunset for Non-residential Projects.

The City Council's authorization to pay the Fee for one or more buildings in a non-residential development Project containing more than one primary structure (e.g., more than one restaurant or store) is conditioned upon the Project obtaining City approval of a building permit for a first primary structure in the Project, and commencing vertical construction of the permitted structure, within two years of the date of approval of the Resolution authorizing payment of the Fee. Thereafter, the Project shall obtain a building permit for at least one additional primary structure, and commence vertical construction, within each successive twelve months following the commencement of construction of the prior building. By way of example, if a Resolution is approved on January 1, 2024, a first building permit must be obtained, and vertical construction commenced, prior to December 31, 2025; the next building must be permitted and construction commenced prior to December 31, 2026; and so on. Should any of these events not occur before the applicable sunset date, the City Council approval shall lapse and the remaining Credits shall revert to the City. The City Council, in its sole discretion, may extend these sunset deadlines or modify these conditions in a public meeting.

General.

1. **Fee Cost.** The Fee shall be established at \$35,000 per 1.0 acre-foot of depletion of municipal water rights. This Fee amount is not intended or calculated to reflect market value. The Fee applicable to any Request shall be the Fee in effect on the date of the Request, provided the

- building permit application for which the Fee is paid is filed with the City within one year of the Request, and otherwise shall be the Fee in effect on the date of the building permit application.
2. Annual Limit. The number of Credits purchased pursuant to this Policy shall not exceed a total of 50 in any calendar year or in any period of 12 consecutive months without the approval of the City Council, in its discretion.
 3. Acceptance of Credits. Upon payment of the Fee, the City will indicate the payment on the approved building permit. Payment of the Fee to the City constitutes surrender of the Credits to the City. No Credit certificate is required.
 4. Integration. This Policy shall supersede any prior oral or written policies, practices, and understandings on the subject of this Policy.
 5. Use of Revenues. Revenues derived from payment of the Fee shall be utilized for the protection of existing water rights and/or the acquisition of additional water rights, except that the City Council may authorize the use of the revenues for other Tooele City water-related projects and needs upon a finding of good cause. The water rights revenue fund is a fund in the City's General Fund and is not an enterprise fund.
 6. Limited Availability. The payment of the Fee under this Policy is subject to the availability of corresponding water rights, in the sole discretion of Tooele City.
 7. Resolution Required. The City Council's authorization to pay the Fee for a non-residential Project shall be pursuant to approved City Council Resolution.
 8. No Entitlement or Security. Approval of a Resolution for a Project containing multiple lots or buildings (e.g., subdivision, site plan) shall be a temporary reservation of Credits for the Project's building permit applicants. Approval of a Resolution shall not constitute a vested development right or a land use entitlement, or the creation of a marketable security. The City will accept the Fee only from building owners, the authorized agents of building owners, or building permit applicants for buildings in a Project.
 9. No Assignment or Transfer. Credits shall not be assignable or transferrable but are reserved by the City in the City's sole discretion for specific Projects and sold for specific buildings.
 10. No Pre-payment. Project owners may not pre-purchase Credits for their Project or any Project building in advance of building permit application.
 11. No Precedent. City Council authorization to pay the Fee for one Project, at whatever Fee amount per Credit, shall not be considered a precedent in any way in reference to any other Project.
 12. Refunds. If water usage projection for a building are reduced by the City after payment of the Fee for that building, the City will reimburse the difference between the Fee paid and the Fee that would have been paid under the reduced usage projection. If a Fee payor withdraws a building permit application prior to its approval, the City will reimburse the Fee, with a \$100 administrative charge.

City Council Chair