

**ENOCH CITY CORPORATION
ORDINANCE NO. 2022-07-20
WATER ACQUISITION & WATER RIGHT TRANSFERS**

WHEREAS, Enoch City provides water for residential, commercial, and industrial uses consistent with City ordinances and other laws, including Utah State laws governing water rights – which are adopted by the Legislature and administered by the State Engineer; and,

WHEREAS, the State Engineer has determined, after extensive study and many public hearings, that the aquifers in the Cedar City Valley have been over-appropriated and over-drafted; and,

WHEREAS, the State Engineer has determined the estimated safe yield for the Cedar City Valley groundwater basin is 21,000 acre-feet per year and the estimated current average depletion from the groundwater basin is 28,000 acre-feet per year; and,

WHEREAS, consistent with statutory authority, the State Engineer has administratively closed the Cedar City Valley basin to further appropriation of consumptive water rights and instituted a Groundwater Management Plan that will eventually curtail the use of existing water rights with priority dates after July 25, 1934, if sufficient water is not first regulated, conserved, and replenished so as to stop the decline of groundwater levels in the Cedar City Valley Basin;

WHEREAS, an ordinance is needed to engage broad citizen participation to help conserve and otherwise assure the adequacy of future water supplies and associated water rights;

WHEREAS, the mission of the City is to manage limited water resources and to promote water conservation;

NOW THEREFORE BE IT RESOLVED that the City is considering the following ordinances to protect and preserve Enoch City’s ability to continue to provide water at reasonable rates and without excessive costs.

A. Water Acquisition Fee. An Applicant seeking approval of a development application for single family dwelling units, and to secure new privileges to use the Enoch City water system, must pay a Water Acquisition Fee, based upon the property acreage and expected water use. An Applicant may pay the Water Acquisition Fee in one of two ways:

1. By transferring a Priority Water Right as detailed herein, or;
2. Transfer of acceptable water rights as shown in the following chart labeled Water Rights Acquisition Fee Chart 2022 with the remaining value in cash.

The Water Acquisition Fee does not fulfill the requirement nor obviate the need to otherwise pay water connection fees. The Applicant shall submit a Subdivision Water Schedule, with each Subdivision Application, designating the selected Conservation Tier for each lot, which determines the Water Acquisition Fee and resulting water rates for each lot.

1. Cash. Applicants paying the remaining value of the transferred water right in cash will pay the amount corresponding to the required water use as per the Acquisition Fee Schedule, which values the required water right based upon a percentage of the appraised value of a one (1) acre-foot Priority Water Right in the Cedar City Valley on the north side of Highway 56 with a water right prefix of 73, and a priority date no later than July 25, 1934 (“Priority Water Right”).
 - a. As often as deemed prudent by Enoch City Council, but typically every six months, Enoch City will contract for and obtain an appraisal of the current fair market value of a Priority Water Right as described in this subsection. These appraisals assist the City in its own purchase of acceptable water rights and are the basis for the Water Acquisition Fees levied by the City.

2. Water Right Transfer. Applicants paying the Fee with the transfer of water rights shall do so with proof of recent beneficial use, proof of ownership through a chain of title, and will pay all costs incurred for deeding and transferring the water right. When deeding water rights to Enoch City, the water right must be in the Cedar City Valley on the north side of Highway 56 with a water right prefix of 73. The water right must conform with one of the following:
 - a. A priority date equal to or prior to July 25, 1934 (“Priority Water Right”); or
 - b. A priority date after July 25, 1934, which at the time of transfer to Enoch City must have at least 10 years before curtailment under the State Engineer’s Groundwater Management Plan for the Cedar City Valley.

For purposes of payment of the Water Acquisition Fee, these post July 25, 1934, water rights are deemed to have a fair market value equal to 1% of a Priority Water Right (per subsection 2(a) above, for each full year remaining at the time of delivery to and acceptance by Enoch City before curtailment under the State Engineer’s Groundwater Management Plan for the Cedar City Valley. The following Water Right Valuation Schedule illustrates the value of each water right as of 2022, quantified as a percentage of a Priority Water Right.

Water Rights Acquisition Fee Chart 2022		
Water Priority Date	Suspension Date	% Value
Jan 10, 1966 - Dec 31, 1957	January 1, 2035	13%
Dec 30, 1957 - Dec 31, 1954	January 1, 2050	28%
Dec 30, 1954 - Dec 31, 1951	January 1, 2060	38%
Dec 30, 1951 - Dec 31, 1935	January 1, 2070	48%
Dec 30, 1935 - Jul 25, 1934	January 1, 2080	58%
July 25, 1934 - & Earlier	Not Suspended	100%

3. Process to Transfer Water Rights. The following process shall be followed for a person developing land within the City to transfer water rights to Enoch City:
- a. The Applicant proposing the transfer shall submit a title report showing the type of water right, ownership of the right, and any liens or encumbrances. The Applicant shall also provide a title insurance policy in a sum adequate to cover the appraised value of the water right(s) the policy is covering.
 - b. An acceptably complete Application for Permanent Change of Water (“change application”) shall be completed and properly filed with the Utah State Engineer at the expense of the Applicant. Information to be included in the change application will be provided by Enoch City including the new points of diversion to be proposed. The change application must be approved by the State Engineer and all statutory periods for reconsideration or court appeal passed prior to conveyance by duly-recorded Deed (and Deed Addendum) the said documentation enabling the State Engineer to amend the Division of Water Rights records to reflect the acquisition by the City. This transfer of ownership may also be conditioned on approval of the subdivision application pending before the City that caused the Applicant to propose the change application and conveyance of the water rights.
 - c. An acceptable Deed (and Deed Addendum) conveying ownership of the water rights to Enoch City shall be completed and held prior to the subdivision application approval. The deed conveying ownership may be held either by the City or in an escrow account paid for by the Applicant. Once the subdivision application has been approved and the change application receives approval as detailed above, the Deed (and Deed Addendum) will be recorded by the City.
 - d. If the Division of Water Rights has not made a final decision on the change application prior to the subdivision approval, then the Applicant shall post a cash bond with the City in the amount of the water acquisition fee.
 - e. If at any point in this process, the change application is denied by the State Engineer, or approved with limiting conditions that are not acceptable to the City, the Applicant must forfeit the bond to Enoch City for the purpose of acquiring necessary water right(s) for Applicant’s proposed development.

- f. If the water rights proposed to be transferred are supplemental, recharge/recovery, recovery or something other than from a conventional underground water well, prior to the City approving the subdivision application the Applicant shall be required to obtain an approved change application with an Order of the State Engineer clearly defining the sole supply and established diversion and depletion limitations of the water right.

B. Exemptions. The following are exempt from the Water Acquisition Fee.

1. Open space exemptions. If at the time of final plat approval, or pulling of a building permit, land is deeded to Enoch City as a dedicated street or for undeveloped open space, parks and recreation, or placed in a conservation easement that complies with the provisions of Title 57, Chapter 18, Sections 1 through 7, Utah Code Annotated, 1953 as amended, then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights or payment of fees. Additionally, if land in a subdivision is to be held as common area and is undeveloped and/or unirrigated, then that land is not subject to the requirements of this ordinance that mandate the payment of Water Acquisition Fees.
2. Public lands exemption. If at the time of annexation, the annexed property is owned by the Bureau of Land Management or the U.S. Forest Service then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.
3. City Exemption. Enoch City is not required to deed water or pay a fee if the City develops land. A purchaser of property from the City will have to pay the Water Acquisition Fee to the City consistent with this ordinance.

C. Water Acquisition Fee Schedule and Tier System. An Applicant seeking approval of a single-family lot development must first designate a Conservation Tier and pay the corresponding Water Acquisition Fee with one (1) AF of water for each single-family lot. The selected Conservation Tier will establish the lot owner's expected water use, and the corresponding Water Acquisition Fee, and the resulting water rates.

1. The Water Acquisition Fee Schedule indicates the Water Acquisition Fee for each Conservation Tier that could be selected, as a percentage of a full, one-acre-foot, Priority Water Right, and the corresponding water use.
2. The Conservation Tier Schedule indicates the lot owner's expected water use and resulting water rate. Enoch City will, from time to time, change such water rates and penalties for each Tier.

D. Properties with Both Culinary & Secondary Water. Applicants seeking to approve properties with a single-family unit and with both Culinary and Secondary water meters are subject to the following. The Water Acquisition Fee for a new water connection on such properties shall be equal to the value of a full, one acre, Priority Water Right. However, the Enoch City Water Rights assigned to such a property shall be as follows: .3 AF of Enoch City Water Right, corresponding to the culinary water, which are not transferable and shall remain with the property, and .7 AF of Enoch City Water Right, corresponding to the Secondary Water, which are not transferable and shall remain with the property. The Conservation Tier Schedule for such properties shall be permanently assigned as follows: The .3 AF of Culinary water shall be set at the Conservation Tier of "CUL," and subject to the corresponding "CUL" water rates. The Secondary water shall be set at the Conservation Tier of "SEC," and shall be subject to the corresponding SEC water rates. Properties in Enoch City with both a Culinary water meter and a Secondary water meter, will receive an Enoch City water bill separately designating the rates for each water meter.

E. Multi-Residential Developments. Applicants seeking approval of a Multi-Residential Development must provide an engineered Annual Water Estimate, illustrating the total annual, acre feet of water estimated to be used by the Development ("Annual Water Estimate"), to be reviewed and approved by Enoch City. The initial Water Acquisition Fee and Water Right and the subsequent water rate will be calculated based on this determination. For purposes of this Annual Water Estimate, the number of Multi-Residential Units should be multiplied by .3 acre-feet of water, and each sq/ft of proposed grass should be divided by 10,057, to derive the Development's Annual Water Estimate, in terms of Acre Feet (i.e.: a twenty-unit subdivision (20 units x .3 = 6AF) with 10,000 square feet of grass (10,000 sq/ft grass / 10,057 = .994AF) would have a 6.994AF Annual Water Estimate). The Water Acquisition Fee and Water Right will be determined by multiplying the Annual Water Estimate by the priority Water Right Value (i.e.: a Development with a 6.994AF Annual Water Estimate will pay 6.995 multiplied by the Conservation MFD Tier, which is 100% of the appraisal Priority Water Right). The Development would subsequently pay for water at a rate of 6.994AF multiplied by the Tier 1 Rate (i.e. a MRD that is estimated to use 6.994AF of water annually will pay 6.994 times the Tier 1 Rate). The Water Rights assigned to a Multi-Family Development will be assigned under the "MFD" Conservation Tier. These Water Rights are not transferable and must remain assigned to the Development. If any Multi-Family Development is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be required to pay an additional Water Acquisition Fee to address the extra water used.

F. Commercial, Industrial, and Manufacturing Developments. Applicants seeking approval for commercial, industrial, or manufacturing developments must provide an engineered Annual Water Estimate, illustrating the total, annual, acre feet of water estimated to be used for each lot, to be reviewed and approved by Enoch City. The initial Water Acquisition Fee with Water Right and the subsequent water rate will be calculated based on this determination. For purposes of this Annual Water Estimate, the engineer must determine the various uses and estimate the amount of water to be used for the property, including the proposed square footage of grass, which should be divided by 10,057, to derive the total annual, number of acre feet of water used for grass areas. The Water Acquisition Fee and Water Right will be determined by multiplying the Annual Water Estimate by the appraised Priority Water Right. The subsequent water rate will likewise be determined by multiplying the Annual Water Estimate by the Tier 1 Rate. The Water Rights

assigned to a Commercial, Industrial, or Manufacturing lot will be assigned under the “Com” Conservation Tier. These Water Units are not transferable and must remain assigned to the property. If any Commercial, Industrial, or Manufacturing property is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be required to pay an additional Water Acquisition Fee with Water Right(s) to address the extra water used.

G. Institutional Properties. Applicants seeking approval of Institutional Developments, including schools, religious buildings, and other properties of nonprofit organizations, must present an engineered Annual Water Estimate, illustrating the total, annual acre feet of water estimated to be used for such property, to be reviewed and approved by Enoch City. The initial Water Acquisition Fee & Water Right and the subsequent water rate will be based upon this determination. For purposes of this Annual Water Estimate, the engineer must determine the various uses and estimate the amount of water to be used for the property, including the proposed square footage of grass, which should be divided by 10,057, to derive the total annual, number of acre feet of water used for grass areas. The Water Acquisition Fee & Water Right will be determined by multiplying the Annual Water Estimate by the appraised Priority Water Right. The subsequent water rate will likewise be determined by multiplying the Annual Water Estimate by the Tier 1 Rate. The Water Rights assigned to an Institutional property will be assigned under “INS” Conservation Tier. These Water Rights are not transferable and must remain assigned to the property. If any Institutional property is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be required to pay an additional Water Acquisition Fee with Water Right(s) to address the extra water used.

14.100.113 APPLICATION FOR SINGLE WATER CONNECTION

Any person other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system, shall file with the water department for each such connection a written and signed connection application provided by Enoch City staff.

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- a. As often as deemed prudent by Enoch City Council, but typically every six months, Enoch City will contract for and obtain an appraisal of the current fair market value of a Priority Water Right as described in this subsection. These appraisals assist the City in its own purchase of acceptable water rights and are the basis for the Water Acquisition Fees levied by the City.

2. Water Right Transfer. Applicants paying the Fee with the transfer of water rights shall do so with proof of recent beneficial use, proof of ownership through a chain of title, and will pay all costs incurred for deeding and transferring the water right. When deeding water rights to Enoch City, the water right must be in the Cedar City Valley Drainage on the north side of Highway 56 with a water right prefix of 73. The water right must conform with one of the following:

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- b. A priority date after July 25, 1934, which at the time of transfer to Enoch City must have at least 10 years before curtailment under the State Engineer’s Water Management Plan for the Cedar City Valley Aquifer.

- c. For purposes of payment of the Water Acquisition Fee, these post-July 25, 1934 water rights are deemed to have a fair market value equal to 1% of a Priority Water Right (per subsection 2(a), above water right (priority before July 25, 1934) for each full year remaining at the time of delivery to and acceptance by Enoch City before curtailment under the State Engineer’s Groundwater Management Plan for the Cedar City Valley. The following Water Right Valuation Schedule illustrates the value of each water right as of 2022, quantified as a percentage of a Priority Water Right.

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- b. An acceptable deed (and Deed Addendum) conveying ownership of the water right(s) to Enoch City shall be completed and recorded by the City prior to the building permit application approval.
- c. If the water right(s) proposed to be transferred are supplemental, recharge/recovery, recovery or something other than from a primary conventional underground water well, then prior to the City approving the subdivision building permit application the Applicant shall be required to obtain an approved change application with an Order of the State Engineer clearly defining the sole supply and established diversion and depletion limitations of the water right.

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NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of Enoch City that the Enoch City Ordinance 12.2500 is amended as written above. This Ordinance was voted upon and passed by the Enoch City Council at a regular City Council meeting held on the 20th day of July 2022. It shall take effect immediately after signing by the Mayor and City Recorder.

DATED this 20th day of July 2022

ENOCH CITY CORPORATION



Geoffrey L. Chesnut, Mayor

VOTING:

David Harris Yea Nay ___
Richard Jensen Yea Nay ___
West Harris Yea Nay ___
Katherine Ross Yea Nay ___
Shawn Stoor Yea Nay ___

ATTEST:



Lindsay Hildebrand, City Recorder

SEAL:

