

ROLL CALL VOTING:	YES	NO
Mayor Wendy Pray (tie only)	[x]	[]
Council Member Dorel Kynaston	[ab]	[]
Council Member Paul MacArthur	[x]	[]
Council Member Kari Malkovich	[x]	[]
Council Member Bob Ottley	[x]	[]
Council Member David Pratt	[x]	[]

I move that this Ordinance be adopted.

Council Member MacArthur

I second the foregoing motion:

Council Member Malkovich

ORDINANCE NO. 2021-11

AN ORDINANCE ADOPTING CITY CODE TITLE 8-5-1 Water Requirements and Policies

WHEREAS, the City of Woodland Hills Planning Commission held a public meeting on May 19, 2021 at 7:00pm, for the purpose of proposing Title 8-5-1 Water Requirements and Policies, and;

WHEREAS, the City of Woodland Hills City Council held a public meeting on May 25, 2021 at 6:00pm, for the purpose of adopting Title 8-5-1 Water Requirements and Policies, and;

WHEREAS, the public meeting was preceded by the posting of a notice of public meeting at the city offices, city mailboxes, on the city website; along with notification to the Payson Chronicle Newspaper, a newspaper of general circulation, at least 24 hours prior to the Public Meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Woodland Hills that Title 8-5-1 of the City Code read:

8-5-1 WATER REQUIREMENTS AND POLICIES

1 - TYPE OF WATER THAT IS ACCEPTABLE TO THE CITY.

The allocation of water in Utah County is controlled by the State Division of Water Rights. Presently all water in Utah County is allocated in wells, irrigation and canal companies, stock watering companies, and other cities for their municipal uses. Since there is no water that is not already allocated in Utah County, those providing a water right to Woodland Hills City must get the water from a source that has already been allocated. This is done by means for transferring a water right from one source (mentioned above) to the city's municipal use into one of its wells. This process is controlled by the State Division of Water Rights (DWR) through a permanent change of water application form (change application).

The city currently requires .90 acre feet of water for each equivalent residential lot connection that is being developed in the city. This amount of water may change in time and a larger amount may be required for a business or other entity that may use larger amounts of water.

2 - APPLICATION FOR PERMANENT CHANGE OF WATER TO STATE DIVISION OF WATER RIGHTS (DWR):

a. To transfer water to the city it is the responsibility of the individual or company owning the water right to initiate the change application with the DWR, with the approval of the city, who will become the new owner of the water right. There is a review process which takes place by the DWR and an opportunity for other water right holders to protest the change if they feel their water right will be adversely effected by the change in the place of diversion, i.e. moving the source of diversion from a well or irrigation/canal company to the Woodland Hills City water system. After the protest period is over and the DWR review completed, the DWR will issue a decision memorandum which will either allow the change in the place of diversion or disallow the change. This change must be allowed by the DWR in order for the city to accept the water right into its municipal water system.

b. Further, there are some irrigation and canal companies that will not transfer their stock or certificates of shares for their irrigation company to the city. Their purpose in doing this is to keep the water right in their system. However, they will allow the city to be the holder of this water right and have the understanding that the water in the water right can no longer be used by them in their irrigation system, but is being transferred to a municipal use for the City of Woodland Hills. This is acceptable to the city as long as the new right is in the name of the City of Woodland Hills. In most of these cases the irrigation company will charge a yearly carrying charge for the water right. This carrying charge will be calculated by the city who may require this fee to be paid by the water right contributor up front to cover perpetual charges.

c. All costs associated with the filing or review process which are assessed by the DWR are to be paid by the individual or company transferring the water right to the city.

3- DEEDING OF THE WATER RIGHT TO THE CITY:

Following DWR's approval of the change application the water right owner must deed the water right to the city, either by warranty deed or a quit claim deed showing the city as the new owner of the water right. This deed must be recorded with the Utah County Recorder's office and delivered to the city recorder as evidence of the water right transfer. Evidence of completion of these procedures and copies of all related documents must be delivered to the city recorder prior to or at the time of a Final Plat submittal whether it is for recording purposes or otherwise. See section below.

4-WATER RIGHTS BEING TRANSFERRED TO THE CITY MUST MEET THE FOLLOWING REQUIREMENTS:

- a. Before any attempt to transfer a water right to the city, the city must review any and all documentation related to the intended transfer and approve of its willingness to accept the water right being proposed for transfer.
- b. The transferor of the water right has full responsibility to insure completeness of any application made to the DWR to transfer the water right to the city.
- c. The city reserves the right to have a title search done on the water right, at the transferor's expense, to ensure the transferor has legal title to the water right being transferred.
- d. The city reserves the right to reject any proposed water right being transferred if it is not sufficient in amount, the owner of the water right is in question, or the water right is otherwise considered unsuitable for use by the city.

5 - TIME OF CONVEYANCE OF THE WATER RIGHT TO THE CITY:

a. Preliminary Plat Review- If the water right conveyance pertains to a new subdivision or additions or lots being added to an existing subdivision, the sub-divider must provide some evidence as to where the water right is coming from, such as a commitment letter from the owner stating that the water right owner is willing to sell the water right, if it is not already in the possession of the sub-divider. This documentation must be provided to the city recorder for the planning commission and city council reviews of the Preliminary Plat application.

b. Final Plat Review-At the time of Final Plat Review, for recording or otherwise, any change applications reviewed and approved by DWR for the conveyance of the water right to the city must be completed and submitted with the final plat to the city recorder for review and approval by the planning commission and city council, along with a recorded deed showing conveyance of the water right to the city. Under no circumstances will a building permit be issued for any construction of a dwelling or building without proof from DWR that the city can use the respective water right and it can be conveyed to the city and a recorded deed has been executed to show ownership of the water right in the city's name.

6 - CONVEYANCE OF TITLE TO A WATER RIGHT:

Once a water right has been deeded to the city it becomes the property of the city and used at the city's sole discretion. If lots are later combined within a subdivision, the water right pertaining to one of the combined lots continues to belong to the city and will not be deeded back to any developer or lot owner.

7 - "BANKING" OF WATER RIGHTS:

With the city council's approval, water rights can be "banked" by the city for future use in a development, subdivision, etc. The water right must have gone through the processes outlined in Section B above and a Water Banking Agreement executed between the conveyor and the city, which is acceptable to the city. Any fees associated with this must be paid by the conveyor of the water right. If the development or subdivision does not materialize or it is otherwise determined that the water right is not needed by the conveyor, the water right will be returned to the conveyor. The water right conveyor can remove these water rights from the "bank" at their own discretion but are required to pay any fees that might be associated with the title transfer.

The city shall be granted full use of the banked water at the time of the execution of the Water Banking Agreement.

ADOPTED by the City Council of Woodland Hills this 25th day of May 2021.

Wendy Pray, Mayor

Attest:

Jody Stones, City Recorder

CERTIFICATE OF POSTING ORDINANCE

For the City of Woodland Hills

I, the duly appointed and acting Recorder for the City of Woodland Hills, hereby certify that.

copies of the foregoing Ordinance No. 2021- 11 were posted at three public places within

the municipality this 26th day of May which public places are:

1. City Information Bulletin Board, 200 S. Woodland Hills Drive
2. Woodland Hills City Center, 690 S. Woodland Hills Drive
3. Woodland Hills Web Site, www.woodlandhills-ut.gov

Dated this 26th day of May 2021.

Jody Stones, City Recorder