

## ORDINANCE No. 17-2023

### ROLL CALL

VOTING	YES	NO	ABSENT	ABSTAIN
MIKE MENDENHALL <i>Mayor (votes only in case of tie)</i>				
CHAD ARGYLE <i>Councilmember</i>	X			
STACY BECK <i>Councilmember</i>	X			
JESSE CARDON <i>Councilmember</i>	X			
SHANE MARSHALL <i>Councilmember</i>	X			
KEVIN OYLER <i>Councilmember</i>	X			

I MOVE this ordinance be adopted: Councilmember Oyler

I SECOND the foregoing motion: Councilmember Beck

### ORDINANCE No. 17-2023

#### AN ORDINANCE AMENDING SECTIONS 15.4.16.020 AND 15.4.04.080 OF THE SPANISH FORK MUNICIPAL CODE PERTAINING TO THE NOTICES OF PIONEERING INTENT

WHEREAS Sections 15.4.16.020 AND 15.4.04.080 of the Spanish Fork Municipal Code provide an avenue for those who have installed infrastructure that will benefit other properties to be reimbursed for a portion of those expenses through pioneering agreements;

WHEREAS it is important to notify future purchasers, developers, and property owners of the potential existence of pioneering agreements;

WHEREAS the City Council desires to amend Sections 15.4.16.020 and 15.4.04.080 of the Spanish Fork Municipal Code to require Notices of Pioneering Intent;

WHEREAS a public hearing was held before the Planning Commission on \_\_\_\_\_, 2023, whereat public comment was received; and

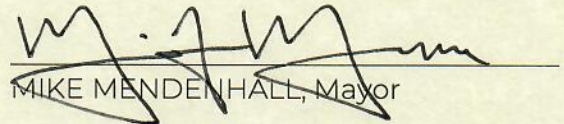
WHEREAS a public hearing was held before the Spanish Fork City Council on \_\_\_\_\_, 2023, whereat additional public comment was received;

NOW THEREFORE, be it enacted and ordained by the Spanish Fork City Council as follows:

**Section 1. Amend Sections 15.4.16.020 and 15.4.04.080 of the Spanish Fork Municipal Code.** Sections 15.4.16.020 and 15.4.04.080 of the Spanish Fork Municipal Code, pertaining to pioneering agreements are hereby amended as set forth in the attached exhibit. Only the sections of the Code listed herein are amended. All other sections of the Code shall remain unchanged.

**Section 2. Effective Date.** This Ordinance shall take effect upon publication or posting, or thirty (30) days after passage, whichever occurs first.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH: \_\_\_\_\_, 2023.

  
MIKE MENDENHALL, Mayor

Attest:  
  
TARA SILVER, City Recorder



EXHIBIT

SECTIONS 15.4.16.020 AND 15.4.04.080  
SPANISH FORK MUNICIPAL CODE

#### **15.4.16.020 Unavailability Of Adequate Public Facilities**

- A. In the event that the City Engineer determines that adequate public facilities are not available and will not be available by the time of approval, so as to assure that adequate public services are available at the time of occupancy, the following alternatives may be elected, at the discretion of the City Council:
1. Allowing the developer to voluntarily construct those public facilities which are necessary to service the proposed development and provide adequate facilities as determined by the City Engineer and by entering into an appropriate form of pioneering, or developers agreement, which may include, as deemed appropriate by the City Engineer, provisions for recoupment of any expenses incurred above and beyond those reasonably necessary for or related to the need created by or the benefit conferred upon the proposed development, and the method and conditions upon which recoupment is to be obtained. Any pioneering agreement authorized by this paragraph must be requested within 120 days of the completion and acceptance by the City of the improvements. The City Public Works Director may extend the deadline for up to one additional term upon good cause show.
  2. Requiring the timing, sequencing, and phasing of the proposed development consistent with the availability of adequate public facilities.
  3. Deferring approval and the issuance of building permits until all necessary public facilities are adequate and available.
  4. Denying approval and allowing the applicant to reapply when adequate public facilities are available.
- B. In the event the City installs infrastructure improvements which ~~benefits~~benefit specific properties, it may also recover reimbursement on a pro-rata basis from the benefitted properties when they develop, on the same basis as a developer would recover reimbursement with a pioneering agreement as set forth in paragraph A. A notice of pioneering intent may be recorded once the improvements are budgeted.
- C. If an owner or developer plans to apply for a pioneering agreement at the conclusion of a project, the owner or developer shall submit a Notice of Pioneering Intent Application, pay the applicable fees, and post a bond for the pioneering infrastructure. The Public Works Director shall record a Notice of Pioneering Intent against the properties that will be benefitted by the pioneering infrastructure. The notice is not a lien on the property.
- ~~C.D.~~ When a pioneering agreement is granted, or the City installs infrastructure for which it will be reimbursed, the ~~City will~~Public Works Director shall record a ~~notice~~Notice of Development Obligations against the benefitted properties so that a future owner/developer will be on notice of development costs associated with that parcel. The notice is not a lien on the property. The City ~~Engineer is designated~~not obligated to ~~sign, on behalf of the City, the collect~~ money for pioneering work if a Notice of Pioneering Intent or Notice of Development Obligations is not recorded or statutes or case law preclude the charging for the pioneering work.
- E. Any Notice of Pioneering Intent shall be removed with the filing of a Notice of Development Obligation.

#### **15.4.04.080 Approval Or Disapproval – Procedure**

...

D. The adequacy of public facilities shall be determined in accordance with the Spanish Fork City development standards, the various master plans and the comprehensive general plan of the City, and at the discretion of the City Engineer. In the event that the City Engineer determines that adequate public facilities are not available and will not be available by the time of final plat approval, so as to assure that adequate public services are available at the time of occupancy, the following alternatives may be elected, at the discretion of the City Council:

1. Allowing the developer to voluntarily construct those public facilities which are necessary to service the proposed development and provide adequate facilities as determined by the City Engineer and by entering into an appropriate form of pioneering or development agreement, which may include, as deemed appropriate by the City Engineer, provisions for recoupment of any expenses incurred above and beyond those reasonably necessary for or related to the need created by or the benefit conferred upon the proposed development, and the method and conditions upon which recoupment is to be obtained. If an owner or developer plans to apply for a pioneering agreement at the conclusion of a project, the owner or developer shall submit a Notice of Pioneering Intent Application, pay the applicable fees, and post a bond for the pioneering infrastructure. Any pioneering agreement authorized by this paragraph must be requested within 120 days of the completion and acceptance by City of the improvements. The City Public Works Director may extend the deadline for up to an additional term upon good cause show. A request for a pioneering agreement shall be made on forms provided by the City. An application fee in an amount to cover the City's expenses in preparing the pioneering agreement shall be included. The amount of the fee shall be established by the City Council in the annual budget or by resolution. Upon execution of a pioneering agreement a Notice of Development Obligations, giving notice of the existence of the pioneering agreement, shall be recorded against the properties that are benefitted by the pioneering infrastructure. The Public Works Director is authorized to sign Notices of Pioneering Intent and Notices of Development Obligations and record them against the properties to be benefitted by the pioneering infrastructure.
2. Requiring the timing, sequencing, and phasing of the proposed development consistent with the availability of adequate public facilities.
3. Deferring Final Plat approval and the issuance of building permits until all necessary public facilities are adequate and available.
4. Denying plat approval and allowing the applicant to reapply when adequate public facilities are available.

...