
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: September 15, 2006
SUBJECT: Use of Fire Hydrants
AFFECTED COUNCIL DISTRICTS: Citywide
STAFF REPORT BY: Gary Mumford
ADMINISTRATIVE DEPT. AND CONTACT PERSON: Department of Public Utilities
Jeff Niermeyer

KEY ELEMENTS:

Periodically the City receives requests for the use of fire hydrants for commercial purposes. These requests primarily come from contractors, film industry and private citizens. Use of fire hydrants is currently allowed by ordinance only for fighting fires and other limited City use including testing, flushing and dust control on City street projects. Use of fire hydrants by non trained individuals has the potential to damage the water system facilities from turning a hydrant on or off too fast. These uses could also introduce contamination to the water system. A vulnerability assessment in response to the Bioterrorism Preparedness and Response Act identified fire hydrants as a potential access point for intentional contamination of the public water supply.

The proposed ordinance allows some limited use of fire hydrants for purposes other than fire fighting if certain criteria are met including training, background checks, and use of a City-issued backflow prevention device.

MATTERS AT ISSUE/POTENTIAL QUESTIONS:

The proposed ordinance provides the following criteria for use of fire hydrants for non-fire fighting purposes.

1. Requests are to be made by application to the Director of Public Utilities. Both the director and the fire marshal will review the application.
2. Training and certifications provided by the Department of Public Utilities are required for the user. The Department is to offer training at least once each month.
3. Background checks will be made prior to certification. The cost is to be borne by the applicant. Certification is to be for one year. Operation of a fire hydrant by a person other than the certified person will result in loss of fire hydrant use by the affiliated persons or entities for one year.
4. The applicant is to provide a \$10,000 surety bond to protect the City against damage to the water system facilities. The applicant is also to provide evidence of insurance that meets the City's standard limits (currently \$2,000,000 per occurrence with a \$3,000,000 aggregate). *The Council may wish to discuss the insurance requirement with the City Attorney to clarify if this high level is needed. These insurance amounts are also required of consultants or auditors doing studies for the City, which some view as excessive.*

5. Meters and backflow prevention equipment is to be provided by the Department of Public Utilities for a \$50 monthly rental fee. No other equipment is allowed to be attached to a fire hydrant.
6. The applicant is to pay for the water used at the highest rate authorized (tier three).
7. The applicant is to provide the department with at least a two-day written notice of the location and time of the intended use.
8. Equipment is to be removed from the hydrant immediately after use so that the hydrant can be accessed by the fire department.
9. The applicant is to pay an inspection fee, not to exceed \$150. The Department of Public Utilities will inspect the meter, backflow prevention device and hydrant to make sure they were not damaged during the period of use.

The only specifically authorized non-fire fighting uses of a fire hydrant in the proposed ordinance are:

- Dust control - To fill water trucks for dust control on streets within the City's water service area in connection with public construction projects within streets.
- Performance of public duties - To perform public duties, as approved by the director.

Other requests may be allowed if the director determines there are no reasonable alternatives, including private sources available at reasonable rates.

The following uses of fire hydrants are expressly prohibited:

- a. Commercial uses such as hydro-seeding, sewer cleaning, concrete and asphalt cutting grinding and mixing
- b. Filling swimming pools, ponds or other natural or artificial bodies of water
- c. Cleaning buildings, streets, vehicles (including cement trucks)
- d. Animal care
- e. Any purpose when outside temperatures are anticipated to fall below freezing during the proposed period of use
- f. Any purpose during times of water shortage, as determined by the director

Requests from the film industry may or may not be approved depending on whether another source of water is available to meet the needs (i.e. neighbor's hose, commercial providers such as Rain for Rent). Previously, a television filming company wrote that the use of a water truck required a very noisy water pump which interfered with the actors saying their lines. The truck also took up parking space and caused more disruptions to the neighborhood. A television filming company indicated that it was willing to pay overtime for a City employee to operate the hydrant. The Department indicated it needed its employees to be available to meet on going operational and maintenance needs. Previously it was suggested that city employees be allowed to work off duty for the film company. Jeff Niermeyer, deputy director, said the Department of Public Utilities does not allow an employee to be put in a situation where the City may be liable for damages. It also blurs the line of when a City employee can conduct private work. The Department has been very strict on letting employees do private work on the City water system. The Department of Public Utilities did not solicit input from the film industry on this proposed ordinance. *The Council may wish to ask representatives from the Department of Public Utilities to clarify and give examples of circumstances where production companies would be allowed to use a fire hydrant.*

The proposed ordinance provides for a civil citation and impoundment of hydrant wrench and hose for unlawful uses of a fire hydrant. The maximum civil penalty for an individual is \$1,000 and for a corporation is \$5,000. The ordinance also applies to fire hydrants maintained by the City but located outside of the City's municipal boundaries.

OPTIONS:

Options that the Council may wish to consider include the following:

1. Forward the proposed ordinance to a future Council Meeting for consideration.
2. Request that the Administration investigate options so that certain requests for use of hydrants, such as from the film industry, could be reasonably accommodated and include these criteria in the ordinance.
3. Request that the Administration obtain input from the Utah Film Commission.

AUG 31 2006

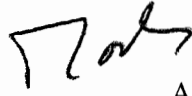

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

ROSS C. "ROCKY" ANDERSON
MAYOR

COUNCIL TRANSMITTAL

To: Rocky Fluhart, Chief Administrative Officer  August 18, 2006
From: LeRoy W. Hooton, Jr., Director Public Utilities 
Re: Proposed Ordinance governing the Use of Fire Hydrants

Recommendation: That the Council considers adopting the proposed Ordinance changes below to provide for an updated ordinance addressing the use of fire hydrants.

Delete the following existing sections:

- 17.16.550 Fire Hydrants-Access for fire department and street use.
- 17.16.560 Fire Hydrants-Use by contractors-Fees,
- 17.16.570 use of water from hydrants-Applications,
- 17.16.580 Hydrant equipment furnished-Deposit,
- 17.16.590 Fire Hydrants-Charges for Water,
- 17.16.600 Fire Hydrants-Proper Use Required,
- 17.16.610 Fire Hydrants-Applicant Responsible for Damages

Renumber the following sections:

- 17.16.620 Fire Hydrants-Unauthorized Use Prohibited: to 17.16.560
- 17.16.630 Unauthorized Possession of Hydrants Equipment to 17.16.570

Added the following new sections:

- 17.16.550 Use of Water from Fire Hydrants
- 17.16.580 Civil Citation
- 17.16.590 Impoundment of Equipment

Availability of Funds: 2006/2007 Budget

Discussion: The demand for using fire hydrants for purposes other than fire fighting has created a need to better define the scope and procedure for which the City will allow the use of fire hydrants for non-fire fighting purposes. The purpose of the ordinance is to balance the risk to the public drinking water system with the need to provide water for non-fire fighting uses such as dust control on construction projects. These non-fire fighting uses of fire hydrants have the potential to damage the water system facilities and introduce contamination to the culinary water system via cross connections. Additionally, vulnerability studies that have been conducted since Congress implemented

SALT LAKE CITY ORDINANCE

No. _____ of 2006

(Relating to the use of fire hydrants; prohibiting certain uses;
providing enforcement procedures; and related matters)

* * *

AN ORDINANCE AMENDING THE SALT LAKE CITY CODE BY
REPEALING SECTIONS 17.16.550, 17.16.560, 17.16.570, 17.16.580, 17.16.590,
17.16.600 and 17.16.610, RENUMBERING SECTIONS 17.16.620 AND 17.16.630,
AND ENACTING NEW SECTIONS 17.16.550, 17.16.580 AND 17.16.590;
RELATING TO THE USE OF FIRE HYDRANTS; PROHIBITING CERTAIN USES;
PROVIDING ENFORCEMENT PROCEDURES; AND RELATED MATTERS.

* * *

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Sections 17.16.550, 17.16.560, 17.16.570, 17.16.580, 17.16.590,
17.16.600 and 17.16.610 of the Salt Lake City Code are hereby repealed:

~~17.16.550 Fire hydrants Access for fire department and street use.~~

~~The fire department shall at all times have free access to all fire hydrants. Water may also be furnished from the fire hydrants under the supervision of the public utilities director to street sprinkling and flushing trucks operated by the city. (Prior code § 49-6-20)~~

~~17.16.560 Fire hydrants Use by contractors Fees.~~

~~The public utilities director may give permission, for which a fee shall be set and charged by the director, for the use of water from fire hydrants by applicants who are engaged in work on public streets. (Prior code § 49-6-21)~~

~~17.16.570 Use of water from hydrants Application.~~

~~Applications for the use of water from fire hydrants must be made in writing upon forms furnished by the public utilities department, stating the purpose for which the water is to be used, approximate length of time the applicant desires to use the water, and must be signed by the applicant or the applicant's authorized agent, agreeing to the conditions for such use, rate and payment as set and determined by the director. (Prior code § 49-6-22)~~

~~17.16.580 Hydrant equipment furnished-Deposit:~~

~~A meter, cutoff valve, outlet connection to said valve and a hydrant wrench shall be furnished by the public utilities department, which equipment must be returned to the public utilities department as soon as the use of the water from the fire hydrant is completed. A minimum deposit will be required from the applicant for the guarantee of the return of the meter and equipment in good condition. The applicant shall reimburse the city for its replacement cost for any item(s) not returned. (Prior code § 49-6-23)~~

~~17.16.590 Fire Hydrants-Charges For Water:~~

~~A minimum charge will be made for the use of said water commencing at the time equipment for water hydrants is delivered to the applicant and until said equipment is again delivered to the waterworks storehouse and a receipt for the same given by the department. A deposit may be required to guarantee the payment of any charge made for the use of water. All water used through a meter shall be paid for at the same rates as are provided in section 17.16.680 of this chapter, or its successor. (Prior code § 49-6-24)~~

~~17.16.600 Fire Hydrants-Proper Use Required:~~

~~The applicant must close the hydrant and disconnect the cutoff valve from the hydrants when not using the water, thereby leaving the hydrants free and clear for use by the fire department. (Prior code § 49-6-25)~~

~~17.16.610 Fire Hydrants-Applicant Responsible For Damage:~~

~~Any damage to the fire hydrant or equipment of the public utilities department after release to the applicant and prior to return must be paid for by the applicant, and the permit of said applicant may be revoked at once by the public utilities department upon applicant's failure to strictly comply with the rules and regulations of the public utilities department and the ordinances of the city governing the use of water from fire hydrants. (Prior code § 49-6-26)~~

SECTION 2. New Section 17.16.550 of the Salt Lake City Code is hereby enacted to read as follows:

17.16.550 Use of Water From Fire Hydrants:

A. Preamble. Fire hydrants are installed and maintained for the primary purpose of suppressing fires and in order to protect the health and safety of residents within the water service area of the city, and preserve property. . Secondary uses have the potential for compromising the primary purpose of fire suppression by causing damage to hydrants, waterlines and other facilities, and by

occupying and interfering with access to fire hydrants. Secondary uses of fire hydrants also increase the risk of intentional and unintentional contamination of the public drinking water supply. Accordingly, it is the policy of the city to discourage access to fire hydrants for all purposes other than fire suppression and other limited city use. Any proposed private, secondary use of fire hydrants shall be evaluated, authorized and regulated in strict accordance with this Section 17.16.550.

B. Definitions. For purposes of this Section 17.16.550, the following terms shall have the following meanings:

- (i) “city fire hydrant” means any fire hydrant owned, operated and maintained by the city;
- (ii) “department” means the city’s department of public utilities;
- (iii) “director” means the director of the department;
- (iv) “fire hydrant” means any fire hydrant connected to the city’s culinary water distribution system, and, unless otherwise indicated, includes fire hydrants located outside of the city’s municipal boundaries;
- (v) “private fire hydrant” means any fire hydrant which is privately owned and maintained; and
- (vi) “public fire hydrant” means any fire hydrant which is not a private fire hydrant.

C. Authorized private fire hydrant uses. Private fire hydrants may be used only for those purposes described in subsection E below.

D. Authorized public fire hydrant uses. Public fire hydrants may be used only for those purposes described in subsections E, F, G and H below.

E. Fire department access. Any public fire department or agency shall have unrestricted access to fire hydrants, including privately-owned fire hydrants, for the purpose of fire suppression and activities incidental thereto, such as testing and flushing.

F. Public fire hydrants--dust control. Public fire hydrants may be used to provide water for dust control on streets within the city’s culinary water service area in connection with public construction projects within such streets.

G. Public agency access to city fire hydrants. Employees of public agencies shall have access to city fire hydrants when reasonably required in the performance of public duties, as approved by the director.

H. Other uses of public fire hydrants. Other uses of public fire hydrants not expressly authorized above shall be allowed only if the director determines there are no reasonable alternatives, including private sources available at commercially reasonable rates. If a connection with a pipe of 1.5 inch diameter or greater is located within 200 feet of the proposed place of use, and the property owner authorizes use of such connection, use of such connection shall constitute a reasonable alternative to using a fire hydrant, absent extraordinary circumstances. Notwithstanding the foregoing, no public fire hydrant use shall be authorized by the director under this subsection H for the following purposes:

- (i) Commercial uses such as hydro-seeding, roto-router sewer cleaning; concrete and asphalt cutting and grinding, and concrete and asphalt mixing;
- (ii) Filling swimming pools, ponds or other natural or artificial bodies of water;
- (iii) Cleaning buildings, streets and vehicles, including cement trucks;
- (iv) Animal care;
- (v) Any purpose, when outside temperatures are anticipated to fall below freezing during the proposed period of use; or
- (vii) Any purpose, during times of water shortage, as reasonably determined by the director.

I. Except for uses described in subsection E above, and except as otherwise provided below, all permitted uses of public fire hydrants shall be subject to the following conditions:

- (i) Application. Persons desiring to use a public fire hydrant shall make written application to the director, on forms provided by the director. Each application must be approved in writing by the fire marshall of the public entity that owns the fire hydrant.
- (ii) Training. All persons operating public fire hydrants shall be trained and certified by the department. The department shall offer training sessions at least once each month, on such dates and at such times as the director shall determine. Certification shall be valid for a period of one year. The certificate issued by the

department shall be carried by any person operating the public fire hydrant, and shall be available for inspection during such operation. Operation of a public fire hydrant by any person without proper certification shall result in loss of fire hydrant use by such person and any affiliated persons or entities for a period of one year, which loss of use shall be in addition to any other fines, penalties or other enforcement actions herein or otherwise authorized by law.

- (iii) Background Check. The director may conduct a criminal background check on individuals requesting training and certification, in accordance with Section 11-40-101 et seq., Utah Code Annotated, or any successor provision. The cost of any criminal background check shall be borne by the applicant.
- (iv) Responsibility for damage; surety bond. The applicant shall be responsible for all damage to the fire hydrant and water system caused by the applicant's use. The applicant shall provide to the department a surety bond or other security acceptable to the director, covering all such damage, in the amount of \$10,000, or such higher amount as the director shall reasonably require. The bond or other security shall be in effect during the period of use, plus four months. A bond or other surety shall not be required of any public agencies applying for fire hydrant access.
- (v) Equipment. All use of water from a public fire hydrant shall be through a meter and backflow prevention device provided by the department. No other equipment or device shall be attached to a hydrant. A reasonable deposit shall be made, assuring return of the equipment in good condition. All equipment shall be returned to the department immediately upon completion of use. Loss or theft of the equipment shall be reported immediately to the department. An equipment rental of \$50 per fire hydrant per month shall be charged for equipment use.
- (vi) Notice and location of use. The applicant shall provide the department's dispatch office written notification of the location and time of the intended use, not less than two business days in advance of the use. Notification shall be delivered in the manner prescribed from time to time by the director.
- (vii) Non-wasting of water. During periods of non-use, the flow of water from the fire hydrant shall be shut off.
- (viii) Removal of equipment. Equipment shall be removed from the fire hydrant immediately after use, and the fire hydrant and

surrounding area shall be left free and clear of any obstructions, for access by the fire department.

- (ix) Inspection fee. The applicant shall pay a non-refundable inspection fee to the department. Such fee shall be in an amount necessary to recoup the city's costs of performing the inspection, together with any administrative expenses involved, as determined by the director, provided that such fee shall not exceed \$150. Public agencies applying for access to fire hydrants shall not be required to pay an inspection fee.
- (x) Indemnification. The applicant shall indemnify, hold harmless and defend the city from any claims, damages and other liabilities arising from the applicant's use of a public fire hydrant. The applicant shall provide the director with such evidence of insurance that meets the city's standard limits and other requirements, as the director shall reasonably require.
- (xi) Charges for water. The applicant shall pay for the water used at the highest rate authorized under Section 17.16.680 of the Salt Lake City Code. A reasonable deposit shall be made in advance to assure payment of the water charge.

SECTION 3. Section 17.16.620 of the Salt Lake City Code is hereby amended and renumbered, to read as follows:

17.16.620-560 Fire Hydrants-Unauthorized Use Prohibited:

It is unlawful for any person, other than those duly authorized, to open, connect any equipment to, or operate any fire hydrant, or to tamper or interfere with or attempt to draw water therefrom, or in any way to obstruct the approach thereto, except in compliance with the provisions of this Chapter 16. (Prior code § 49-6-27)

SECTION 4. Section 17.16.630 of the Salt Lake City Code is amended and renumbered, to read as follows:

17.16.630-570 Unauthorized Possession Of Hydrant Equipment:

It is unlawful for any person(s), without proper authority, to have in their possession any wrench or other equipment necessary to operate for a fire hydrant or water valve. (Prior code § 49-6-28)

SECTION 5. New Section 17.16.580 of the Salt Lake City Code is hereby enacted to read as follows:

17.16.580 Civil Citation.

A person who violates any provision of this Chapter 16 shall be subject to a civil penalty in an amount not exceeding the amounts set forth under Section 1.12.050 of this Code. Any civil citations issued pursuant to this Section shall be subject to adjudication pursuant to Chapter 2.75 of this Code. Such civil citations may be issued by any city police officer, and by any other city employee so authorized by the director. In the event a citation is issued pursuant to this Section 17.16.580, the city may not prosecute the individual in a criminal proceeding for the same conduct. In all cases where equipment is impounded under authority of Section 17.16.590, the city shall either (a) prosecute the person under Sections 17.16.560 or 17.16.570, or (b) pursue a civil citation under this Section 17.16.580.

SECTION 5. New Section 17.16.590 of the Salt Lake City Code is hereby enacted to read as follows:

17.16.590 Impoundment of Equipment.

A. In addition to, or in lieu of, the issuance of a criminal citation pursuant to Sections 17.16.560 or 17.16.570, or civil citation pursuant to Section 17.16.580, the police officer or authorized city employee observing the illegal conduct may impound any equipment used in the violation, or illegally in a person's possession.

B. In the event any equipment is impounded, the person in possession thereof (and the owner thereof, if the person in possession is not the owner, and the city knows or can reasonably ascertain the name and contact information of the owner), shall be notified of the following:

- (i) That the equipment has been impounded; the location where the equipment is stored; that impound processing and redemption fees shall be assessed; that storage fees shall be assessed and shall accrue on a daily basis; and the manner in which the equipment may be redeemed;
- (ii) The person's right to an administrative hearing to determine whether there was probable cause to impound the equipment, upon the filing of a written request with the director for such a hearing within ten (10) business days after the person has learned of the impoundment of such equipment, or within ten (10) business days after mailing the notice, whichever occurs first; and
- (iii) That the equipment shall be sold at auction, or otherwise disposed of in a manner not prohibited by law, as determined by the director, not earlier than the date set forth in the notice (which shall

be not less than fifteen (15) days after mailing of the notice), unless the equipment is earlier redeemed.

C. Hearings Concerning Impoundment.

- (i) A hearing shall be conducted before a hearing examiner designated by the city within forty-eight (48) hours of receipt of a written demand for such hearing as provided above, Saturdays, Sundays and city holidays excepted, unless the person requesting the hearing waives the right to a speedy hearing.
- (ii) Hearing proceedings shall be conducted in an informal manner and shall not be subject to formal rules of evidence or procedure. The person requesting the hearing shall be accorded the essential elements of due process of law, including notice, and an opportunity to be heard and defend such person's position.
- (iii) The hearing examiner shall determine whether the city had probable cause, pursuant to city, state and federal laws, to impound the equipment in question and, in appropriate cases, whether fees and charges should be reduced in the interest of justice.
- (iv) At the conclusion of the hearing, the hearing examiner shall prepare a written decision, and a copy of such decision shall be provided to the person requesting the hearing. The decision of the hearing examiner shall be final, unless an appeal is allowed by law as a matter of right.
- (v) Failure of a person to request or attend such a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.
- (vi) The hearing provided for in this subsection C shall be in addition to, and not in lieu of, any hearing before an administrative law judge or other authorized hearing office in connection with any civil citation issued pursuant to Section 17.16.640, and the findings made by the hearing officer hereunder shall not affect such other civil proceedings.

D. Redemption of Equipment. Within fifteen (15) calendar days after the required notice is delivered or mailed, the person to whom such notice was mailed, or such person's representative, may redeem the equipment by paying the following amounts to the director:

- (i) an impound processing fee of \$100;

- (ii) a storage fee of \$10 per day; and

- (iii) a redemption fee of \$500; provided that (A) the redemption fee paid shall be recognized as a credit against any fine or penalty imposed under Sections 17.16.560, 17.16.570 or 17.16.590, and (B) will be refunded in whole or in part to the extent it exceeds any fine or penalty imposed.

Notwithstanding the foregoing, the city may elect to retain the equipment as evidence, and relinquish the equipment upon redemption only after completion of any proceedings under Sections 17.16.560, 17.16.570 or 17.16.580.

E. If at the expiration of fifteen (15) days after delivering or mailing written notice provided for herein, or such longer period as may be stated in the notice referred to in paragraph B above, such equipment is not redeemed, , the director or his or her designee shall proceed to sell the same, at private auction.

F. Disposition of Sale Proceeds. The money received from the sale of any such equipment shall be applied first to pay all outstanding fees assessed under this Section 17.16.590, then to pay the actual costs of advertising the notice of sale and of auctioning the equipment, and then to pay the outstanding amount of any civil penalty imposed under Section 17.16.580. The balance, if any, shall then be paid into the city's water enterprise fund. At any time within one year from and after such sale, the former owner of the equipment sold, upon application to the director and upon presentation of satisfactory proof that he or she was the owner of the equipment sold, shall be paid the remaining proceeds of such sale. In the event the equipment commingled with other equipment and sold together with such other equipment, the director shall allocate the sales proceeds to all items so sold in a reasonable manner, as determined by the director.

G. Other Disposition of Equipment. In the event there are no bidders at the auction, the city may retain the equipment for its own use, may destroy the equipment, or dispose of the equipment in any other manner not prohibited by law.

H. No Claim Against City. In the event the equipment is not redeemed as provided for herein, and in the event any excess sale proceeds are not claimed within the time period herein provided, the former owner shall have no claim whatsoever against the city with respect to such equipment or such proceeds.

I. Records of Impoundment. The director shall keep and maintain all records relating to impounded equipment, including a description of the equipment, the date and place of impoundment, the name of the city employee who impounded the equipment, any hearing held and the outcome thereof, any

sale at auction, the amount and disposition of any proceeds of sale, and any other disposition of the equipment. Such records shall be kept and maintained for such period as may be required from time to time by the city's records retention schedule.

SECTION 6. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2006.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.
Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)
Bill No. _____ of 2006.
Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 8/2/06
By Chris Bell