

**TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
ORDINANCE 23 – __**

AN ORDINANCE AMENDING CHAPTER 171 OF THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, CONCERNING WATER, BY AMENDING SECTIONS 171-2, CONCERNING DEFINITIONS; 171-4, CONCERNING THE POLICY FOR WATER SERVICE OUTSIDE OF TOWN; 171-6, CONCERNING CONDITIONS FOR WATER SERVICE OUTSIDE OF TOWN; 171-11, CONCERNING WATER RATES AND CHARGES; AND 171-15, CONCERNING THE SALE OF WATER TAPS.

WHEREAS, the Town of Frisco, Colorado (“Town”) is a home rule municipality, duly organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, this ordinance is adopted pursuant to the Town’s home rule authority in order to protect the public health, safety and welfare by providing for the orderly growth of the Town and its water system, developing and equitably distributing the costs of municipal water, and by providing a policy and plan for areas in and outside of the corporate limits of the Town for the protection of the public water system.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO THAT:

Section 1. Subsection 171-2 of the Code of Ordinances of the Town of Frisco (the “Code”), concerning definitions of terms, is hereby amended to read as follows:

§ 171-2. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ACCESSORY HOUSING UNIT - Shall have the meaning as set forth in Section 180-9.3 of this Code.

AFFORDABLE HOUSING - Shall have the meaning as set forth in Section 180-9.3 of this Code.

AIR GAP is a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard AMSE A112.1.2.

BACKFLOW means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the public water system’s distribution system from any source or sources other than its intended source.

BACKFLOW CONTAMINATION EVENT means backflow into a public water system from an uncontrolled cross connection such that the water quality no longer meets the Colorado Primary Drinking Water regulations or presents an immediate health and/or safety risk to the public.

BACKFLOW PREVENTION ASSEMBLY means any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contaminant at the cross connection and is an in-line field-testable assembly.

BACKFLOW PREVENTION METHOD means any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the for the identified contaminant at the cross connection.

BASELINE WATER DELIVERY SUPPLY means 130% of the Town's Existing Water Delivery Commitment at the time an application for an Extra-Territorial Tap is submitted, plus 130% of the New Extra-Territorial Delivery Commitment associated with the tap(s) requested in such application.

CAPITAL EQR — Represents an average, single-family residence, or its equivalent, with respect to the capital facility requirements of the town's system.

CASH IN LIEU OF WATER RIGHT DEDICATION means the monetary payment that, upon satisfaction of certain conditions, an applicant for an Extra-Territorial Tap must make to the Town in lieu of meeting the Water Right Dedication Requirement for Extra-Territorial Taps.

CERTIFIED CROSS-CONNECTION CONTROL TECHNICIAN means a person who possesses a valid Backflow Prevention Assembly Tester certification from one of the following organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA. If a certification has expired, the certification is invalid.

CONTAINMENT means the installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility, or area such that backflow from a cross connection into the public water system is prevented.

CONTAINMENT BY ISOLATION means the installation of backflow prevention assemblies or backflow prevention methods at all cross connections identified within a customer's water system such that backflow from a cross connection into the public water system is prevented.

CONTROLLED means having a properly installed, maintained, and tested or inspected

backflow prevention assembly or backflow prevention method that prevent backflow through a cross connection.

CROSS CONNECTION means any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.

DEFERRAL OF PLANT INVESTMENT FEES - The ability to delay payment of plant investment fees, as determined by this chapter.

DWELLING UNIT - A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwellings may exist in many configurations, including single- household detached, duplex and multi-unit dwellings and group homes. Dwellings do not include boarding, rooming, lodging or tourist homes, hotels, motels, extended stay lodgings or lock-off units.

EXISTING WATER DELIVERY COMMITMENT means the water delivery supply required to meet, as of the date of an application for an Extra-Territorial Tap, the In-Town Per-Tap Water Delivery Commitment multiplied by the total number of in-Town taps, plus the Extra-Territorial Per-Tap Water Delivery Commitment multiplied by the total number of Extra-Territorial Taps, plus the average amount of bulk water sold annually by the Town over the immediately preceding ten calendar years.

EXTRA-TERRITORIAL PER-TAP WATER DELIVERY COMMITMENT means 0.44 acre-feet per year, based on use solely for (i) indoor domestic purposes and (ii) watering of flowers, decorative plants, bushes, and trees, so long as such watering is accomplished by hand using a watering can or hose with an automatic shutoff valve. As used in this Chapter, "tap" often has the same meaning as "Capital EQR," but the tap fee is always based upon the capital EQR schedule given in the "Plant Investment Fee Calculation" in Article I, Section 171-11 below. It is the intent of Town Council that the Extra-Territorial Per-Tap Water Delivery Commitment be evaluated on an annual basis, with revision as needed and as supported by the Water Department's analysis.

EXTRA-TERRITORIAL TAP means a water tap that (i) the Town agrees to supply with municipal water in accordance with the terms and conditions of this Chapter; and that (ii) is located outside Town limits at the time service to the tap is approved in accordance with such terms and conditions.

EXTRA-TERRITORIAL TAP CONTRACT means the contract required by Article I, § 171-6 for approval of and service to an Extra-Territorial Tap.

EXTRA-TERRITORIAL TAP EVALUATION TOOL means the planning tool that Town officials will use to evaluate applications for Extra-Territorial Taps, to calculate

the Water Right Dedication Requirement for Extra-Territorial Taps, and, subject to satisfaction of certain conditions, to calculate the required amount of Cash in Lieu of Water Right dedication.

FIRE DISTRICT – The Colorado special district known as the “Lake Dillon Fire Authority.”

FIRM-YIELD WATER DELIVERY SUPPLY means the amount of water the Town has determined that it will have physically and legally available, under dry-year conditions, for delivery to customers. The Town will update the Firm-Yield Water Delivery Supply within the Extra-Territorial Tap Evaluation Tool within 30 days of the date on which any water court decree making a new supply available for such delivery and use becomes final and unappealable.

IN-TOWN PER-TAP WATER DELIVERY COMMITMENT means 0.55 acre-feet per year. It is the intent of Town Council that the In-Town Per-Tap Water Delivery Commitment be evaluated on an annual basis, with revision as needed and as supported by the Water Department’s analysis.

MULTI-FAMILY means a single residential connection to the public water system’s distribution system from which two or more separate dwelling units are supplied water.

NEW EXTRA-TERRITORIAL DELIVERY COMMITMENT means the water delivery supply required to meet the Extra-Territorial Per-Tap Water Delivery Commitment for the total number of new taps requested in an application for Extra-Territorial Tap(s).

PLANT INVESTMENT FEE (PIF) — For each new service, there shall be an initial service charge to partially compensate the Town for the maintenance of water rights, and for the ongoing construction and maintenance of pumping facilities, storage and transmission mains. This charge is based on estimated demands put on the system other than fire-fighting demands.

PROCESS WATER — Water used in an industrial or commercial process.

QUALIFIED DEVELOPER - Any person constructing new or renovating existing residential housing units within the Town of Frisco who is contractually bound, through financing arrangements or otherwise, by a governmental or non-profit agency including the Town, to provide all or a portion not less than twenty per cent (20%) of such residential housing as affordable housing for a period of twenty (20) years or more.

REGIONAL WASTEWATER TREATMENT SYSTEM means the system operated by the Frisco Sanitation District.

SERVICE LINE — The waterline running from the town distribution main including the corporation stop to and upon the premises of a user being supplied with water.

SINGLE-FAMILY means (i) a single dwelling unit which is occupied by a single family and is supplied by a separate service line; or (ii) a single dwelling comprised of multiple dwelling units where each living unit is supplied by a separate service line.

UNCONTROLLED means not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross connection.

WATER DEPARTMENT — The Town of Frisco Water Department.

WATER MAIN — Any main or line within Town right of way or dedicated easement, owned by the Town for the purpose of domestic water supply.

WATER RIGHT DEDICATION REQUIREMENT FOR EXTRA-TERRITORIAL TAPS means the decreed characteristics and the amount of water that an applicant for an Extra-Territorial Tap is required to dedicate to the Town as a condition of approval of such tap. At the Town's sole discretion, Cash in Lieu of Water Right Dedication may be required as a condition of the Town's approval of an application for Extra-Territorial Tap. In exercising its discretion to require Cash in Lieu of Water Right Dedication in place of satisfaction of the Water Right Dedication Requirement for Extra-Territorial Taps, Town Council will consider, without limitation, the following factors: (i) whether the Town is aware of suitable water rights available for purchase and incorporation into the Town's municipal system; (ii) whether the Town owns water supplies that may be incorporated into the Town's municipal system only through a new Water Court application (e.g., for a new or amended augmentation plan or a change of water rights); (iii) whether the water rights portfolio already incorporated into the municipal system may be made more efficient through a new Water Court application or through consultation with the Division Engineer for Water Division No. 5; and (iv) whether there is an opportunity for the Town to convert dedicated water supplies to owned water supplies.

WATER SUPPLY SYSTEM means a water distribution system, piping, connection fittings, valves and appurtenances within a building, structure or premises. Water supply systems are also referred to commonly as premise plumbing systems.

WORK FORCE HOUSING – Means a dwelling unit that is restricted in perpetuity to occupancy by individuals meeting the employment and occupancy standards as established from time to time by the Town. Occupancy standards include requirements for primary residency and local employment.

Section 2. Subsection 171-4 of the Code, concerning the Town's policy for water service outside of Town, is hereby amended to read as follows:

§ 171-4. Policy for Water Service Outside of Town.

A. The ~~town~~Town is the owner of certain water rights and a waterworks system for the purpose of supplying domestic water for the use of the inhabitants of the Town of Frisco. Inhabitants of areas outside the town may be permitted to purchase domestic water service from the town by connection into its distribution system by written ~~contract~~Extra-Territorial Tap Contract, subject to and in accordance with the terms and conditions of such contract and the additional terms and conditions of this Chapter 171.

~~B. Use of water outside the corporate limits shall be subject to the paramount rights of users within the corporate limits. In case of insufficient water to provide for users both within and without the corporate limits, the town may reduce, curtail or shut off the users outside the corporate limits during such period of water shortage or seareity.~~

~~C.~~B. Any Extra-Territorial Tap approved in compliance with the terms and conditions of this Chapter 171 will be delivered municipal water on an equal footing with taps within Town limits as long as use of such Extra-Territorial Tap remains in strict compliance with all terms and conditions of the Extra-Territorial Tap Contract and this Chapter. Any water use restriction imposed under and in accordance with Article 5 of this Chapter will apply to all taps supplied by the Town, both within Town limits and extra-territorially.

~~D.~~C. No service will be provided for unplatted or undeveloped properties.

~~E.~~D. The Town of Frisco shall have the option to require ~~a large development or an~~ annexation to provide water rights or require payment in lieu of water rights as a condition of water service. Approval of all Extra-Territorial Taps is expressly conditioned upon the applicant's satisfaction of the Water Right Dedication Requirement for Extra-Territorial Taps or, upon prior satisfaction of specified conditions, payment of Cash in Lieu of Water Right Dedication.

~~F.~~E. Nothing in this Chapter grants any user of water delivered to an in-Town tap or an Extra-Territorial Tap any ownership interest in or control over the Town's water rights, water-related agreements, or water infrastructure.

Section 3. Section 171-6 of the Code, concerning conditions for water service outside of Town, is hereby amended to read as follows:

§ 171-6. Conditions for Water Service Outside Town.

A. Unless and except as expressly provided to the contrary in this Chapter, all requirements applicable to in-Town taps apply equally to Extra-Territorial Taps.

- B. Approval of Extra-Territorial Taps is subject to and expressly conditioned upon satisfaction of all of the following requirements. References to the “Applicant” in this Section are to the Applicant for an Extra-Territorial Tap.
- (i) The Applicant must submit, in writing, a complete Application for Approval of Extra-Territorial Tap on the form provided by the Water Department; and must attach to the Application all designated documentation.
 - (ii) Along with the Application for Approval of Extra-Territorial Tap, the Applicant must submit a non-refundable application fee of \$1,000 (“Extra-Territorial Tap Application Fee”), the purpose of which is to reimburse the Town for its costs in evaluating the application, engaging in follow-up with the Applicant, and preparing the Extra-Territorial Tap Contract. It is the intent of Town Council that the Extra-Territorial Tap Application fee be evaluated on an annual basis, with revision as needed to cover the Town’s costs described in this Article I, § 171-6.B(ii).
 - (iii) The Applicant must agree, in the Application for Approval of Extra-Territorial Tap, to reimburse the Town for its reasonable outside consulting fees incurred in the evaluation of such application and of any water right offered to the Town in satisfaction of the Water Right Dedication Requirement for Extra-Territorial Taps (“Extra-Territorial Tap Reimbursement for Outside Consultants”). The Applicant must make an initial deposit and subsequent deposits of an amount reasonably estimated by the Town Manager or the Manager’s designee to cover the Extra-Territorial Tap Reimbursement for Outside Consultants; and the Town will refund to the Applicant any amount of such deposit remaining after the Town has been reimbursed in full for all of said outside consulting fees. The Applicant must agree that upon exhaustion of the initial deposit, which may be an amount up to \$10,000, the Applicant shall make additional deposits of up to \$5,000 for the Extra-Territorial Tap Reimbursement for Outside Consultants, and shall continue to make such deposits until the said reimbursement has been made in full.
 - (iv) The Applicant must acknowledge and agree, in the Application and the Extra-Territorial Tap Contract, that outdoor use of water delivered to an Extra-Territorial Tap is prohibited, with the following exceptions: (a) watering of flowers, decorative plants, bushes, and trees is permitted, but only if such watering is accomplished by hand using a watering can or hand-held hose with an automatic shutoff valve; and (b) watering for purposes of revegetation following construction is permitted for a limited period to be established and defined within the Extra-Territorial Tap Contract (“Limited Extra-Territorial Tap Revegetation Period”), but only if such watering is accomplished without the installation of a dedicated sprinkler system or other permanent or semi-permanent irrigation system. The Limited Extra-Territorial Tap Revegetation Period may be extended only by a written amendment to the Extra-Territorial

Tap Contract. With the exception described in this Article I, § 171-6.B(iv), lawn irrigation with an Extra-Territorial Tap is prohibited.

- (v) The Applicant must document, with written confirmation of the Frisco Sanitation District, that the property to be served by the tap is connected to and served by the Regional Wastewater Treatment System; and must acknowledge and agree, in the Application and the Extra-Territorial Tap Contract, that the Town's continuing obligation to deliver water to the Extra-Territorial Tap is subject to the Applicant's maintaining such connection and service as active by virtue of remaining a Frisco Sanitation District customer in good standing.
- (vi) At the Town's request, made in the Town's sole discretion, the Applicant must agree to plug and abandon any existing well(s) on the property to be served by the Extra-Territorial Tap, and to deliver to the Town a copy of Division of Water Resources ("DWR") Form GWS-09, file-stamped as received by the State Engineer's Office.
- (vii) The Applicant must grant the Town an enforceable right of first refusal to acquire any water right historically used on the property to be served by the Extra-Territorial Tap ("ROFR"). The ROFR must run with such property and must provide that the Town will be entitled to acquire such water right(s) on the terms established in a bona fide purchase offer made to the owner of the property. The Town's exercise of the ROFR must occur within 120 days of the property owner's delivery to the Town of notice of such bona fide purchase offer.
- (viii) The Water Department must have used the Extra-Territorial Tap Evaluation Tool to determine whether, as of the date of the Application for Extra-Territorial Tap, the Town's Baseline Water Delivery Supply is, on an annual basis, equal to, less than, or greater than the Town's Firm-Yield Water Delivery Supply on an annual basis.
- (ix) If the Town's Baseline Water Delivery Supply is, on an annual basis, equal to or less than the Town's Firm-Yield Water Delivery Supply on an annual basis, the Water Department must have used the Extra-Territorial Tap Evaluation Tool to determine the amount of the Water Right Dedication Requirement for Extra-Territorial Taps, the alternative Cash in Lieu of Water Right Dedication, and any acceptable combination of the two alternatives; and must have determined whether to exercise the Town's discretion to require Cash in Lieu of Water Right Dedication.
- (x) If the Town's Baseline Water Delivery Supply is, on an annual basis, greater than the Town's Firm-Yield Water Delivery Supply on an annual basis, the Water Department must have used the Extra-Territorial Tap Evaluation Tool to determine the amount of the Water Right Dedication Requirement for

Extra-Territorial Taps; and must have set an effective date for the Extra-Territorial Tap Contract as no earlier than 90 days after a water court decree approving use of the dedicated water right(s) for all of the Town's required purposes has become final and unappealable.

- (xi) If the Applicant is required to satisfy a Water Right Dedication Requirement for Extra-Territorial Taps, the Town's water rights counsel must have reviewed and approved the water right(s) proposed for dedication; must have advised the Town in writing of the estimated timetable for incorporation of the dedicated water right(s) into the municipal system, as well as any recommended conditions to be imposed on the dedication; and must have reviewed and approved in writing the form of the deed by which the Applicant will convey the subject water right(s) to the Town.

C. If any condition described in Article I, Section 171-6.B is not satisfied, Town Council shall deny the Application for Extra-Territorial Tap.

D. Commencement of water service to approved Extra-Territorial Taps is subject to and expressly conditioned upon satisfaction of the following requirements:

- (i) Following Town Council's approval, Applicant and the Mayor or the Town Manager, or her or his designee, must have executed the Extra-Territorial Tap Contract.
- (ii) In the Extra-Territorial Tap Contract or in a separate instrument, the Applicant must have granted to the Town the ROFR described in § 171-6.B(vii).
- (iii) The Applicant must have paid the full Extra-Territorial Tap Reimbursement for Outside Consultants owed to the Town under § 171-6.B(iii).
- (iv) The Applicant must have paid in full the required Cash in Lieu of Water Right Dedication identified in the Extra-Territorial Tap Contract.
- (v) The Applicant must have conveyed to the Town, in a form satisfactory to the Town Attorney and the Town's water rights counsel, the Water Right Dedication Requirement for Extra-Territorial Taps identified in the Extra-Territorial Tap Contract.
- (vi) The Applicant must have delivered to the Water Department written confirmation from the Frisco Sanitation District that the property to be served by the Extra-Territorial Tap is connected to and served by the Regional Wastewater Treatment System, and that Applicant is a customer of the District in good standing.

- (vii) At the Town's request, made in the Town's sole discretion, the Applicant must have plugged and abandoned any existing well(s) on the property to be served by the Extra-Territorial Tap; and must have delivered to the Town a copy of executed DWR Form GWS-09, file-stamped as received by the State Engineer's Office.
- (viii) Under the conditions described in § 171-6.B(x), at least 90 days must have elapsed since the date on which the Town has obtained a final and unappealable water court decree approving use, for all required purposes, of any water right dedicated in satisfaction of the Water Right Dedication Requirement for Extra-Territorial Taps.
- E. Subject to and in compliance with applicable decrees of the water court, the Town will maintain legal dominion and control over all water supplied through its water system, including return flows attributable to the first use of such water by the Town's customers.
- F. The Town is entitled, in its sole discretion, to accept, reject, accept in part, or reject in part any water rights offered to the Town in satisfaction of the Water Right Dedication Requirement for Extra-Territorial Taps.
- G. All costs and expenses related to the dedication of water rights to the Town will be borne by the Applicant for an Extra-Territorial Tap.
- H. All mains and piping outside the ~~town shall~~ Town must be of the materials and size as approved required by the Town of Frisco Water Construction Standards, Chapter 171, Article IV; and must be approved in writing by the Water Superintendent.
- I. Water mains ~~to outside areas~~ may be installed by the Town ~~of Frisco~~ or by a developer or user but always at the expense of the developer or user. If the work is performed by persons other than the Town of Frisco or its representative, the drawings and specifications for the work must be approved in writing by the Water Superintendent before the work commences; and the final installation must be approved in writing by the Water Superintendent before water ~~shall be~~ is supplied through the system. If the installation is to be done by a developer or user, the developer or user shall furnish the town with a performance bond before the work commences in the amount of the estimated cost as determined by the Water Superintendent. The estimated cost ~~shall~~ must include design engineering, construction, job inspection and drawings.
- J. At the ~~town's~~ Town's request, the developer or user shall deed to the ~~town~~ Town the water system and rights-of-way, and ~~easements thereof~~ any easement associated therewith, after completion.
- K. Upon and after any annexation to the ~~town~~ Town, the water rates to be charged and

all fees applicable ~~shall~~ to formerly extra-territorial property will be the same as those within the ~~town~~ Town.

- L. The Town Council, at its discretion, shall have the authority to deny ~~water service to out-of-town parcels~~ Applications for Approval of Extra-Territorial Taps or approve such applications with conditions should it deem ~~itsuch denial~~ or approval with conditions to be in the best interest of Town residents.
- (i) Before exercising its discretionary authority to deny or conditionally approve an Application for Approval of Extra-Territorial Tap, Town Council will consider, without limitation, whether the scope of requested Extra-Territorial Taps will result in detrimental secondary impacts to Town or its residents.
 - (ii) In determining whether the scope of the requested Extra-Territorial Taps will result in detrimental secondary impacts to the Town or its residents, the Town Council shall consider not only the number of such taps then-requested, but also whether those taps will serve a part of a larger community or planned community that is likely to make subsequent similar requests. In such an event, the detrimental secondary impacts of the entire community, at its build-out or planned build out, shall be considered.
 - (iii) In determining whether the scope of the requested Extra-Territorial Taps will result in detrimental secondary impacts to the Town or its residents, the Town Council shall consider matters including, but not limited to, whether the planned community will result in a degradation of service levels on Town streets or intersections, and whether there will be increases in demand for Town police protection services, park and recreation programs and services, or other public facilities or services without attendant revenue to pay for the costs of avoiding the degradation of levels of service or to meet the increase in demand.
- M. Any out-of-Town tap to which the Town is providing service as of the date of adoption of this Ordinance will be considered an Extra-Territorial Tap for purposes of this Chapter 171, and will be subject to all requirements imposed upon and all benefits accruing to Extra-Territorial Taps hereunder (i.e., will be on an equal footing with Extra-Territorial Taps approved in accordance with the terms and conditions of this Chapter.

Section 4. Section 171-11 of the Code, concerning rates and charges, is hereby amended to read as follows:

§ 171-11. Rates and Charges.

Plant Investment Fees. Plant investment fees, Capital EQR schedules, delivery charges, flat rates, the per-acre-foot valuation used to calculate required Cash in Lieu of

Water Right Dedication, and fees shall be determined and adopted by Council Ordinance from time to time. New Construction: Except for new construction pursuant to a development application that was submitted to the Town and was complete on or before December 31, 2018 (for which the previously applicable rate of \$4,301.00 per one (1) capital EQR shall apply), beginning on January 1, 2020, for purposes of plant investment fees, one (1) capital EQR equals five thousand dollars (\$5,000.00). In each subsequent year to and including the year 2024, the plant investment fee will increase by 10 percent (10%) over the prior year's fee as of October 1 of each year.

A. Plant Investment Fee Calculation. Plant investment fees shall be calculated, on a capital EQR ("EQR") basis, as follows:

1. Single-family residences, single-family homes and mobile homes established for permanent residences: one and zero-hundredths (1.00).

(a) An "affordable housing" unit as defined in Chapter 180 of the Code of Ordinances of the Town of Frisco (the "Code"), as amended, and which is deed restricted for at least twenty (20) years to assure the unit is available as a long term rental shall have the Plant Investment Fee assessed at one-third (1/3) of the otherwise applicable rate, and the Town shall pay the remaining two-thirds (2/3) of the otherwise applicable rate from the Town's general fund into the Town's water fund.

2. Duplexes (two-family units), multifamily residential units, apartments, condominiums, townhouses and similar facilities in the same complex, one and zero-hundredths (1.00) per unit, plus the following if applicable:

(a) Clubhouse: one and five-tenths (1.5).

(b) Laundry facility: five-tenths (0.5) per washing machine.

3. Transient residential units: hotels, motels, dormitories, bed-breakfast (as defined in Community Development Policy Number CD-12) and similar facilities:

(a) Manager's unit: one and zero-hundredths (1.00).

(b) Units without kitchen facilities and with one (1) or two (2) bed spaces: twenty-five hundredths (0.25).

(c) Units with kitchen facilities and one (1) or two (2) bed spaces: seventy-five hundredths (0.75)

(d) Each additional bed space for Subsection B.3 (b) and (c) above: one-tenth (0.1).

(e) Travel trailer/camper park per space available: one and zero hundredths (1.00).

(f) Dormitories, per each bed space: one-tenth (0.1).

(g) For laundry facilities add five-tenths (0.5).

4. Restaurants, bars and lounges:

(a) Business with a seating capacity of fewer than twenty-five (25): one and twenty-five hundredths (1.25).

(b) Second twenty-five (25) seating capacity, or part thereof: eight tenths (0.8).

(c) Each additional twenty-five (25) seating capacity, or part thereof: six-tenths (0.6).

5. Service station:

(a) Without wash rack: one and fifty-hundredths (1.50).

(b) Each wash rack: one and zero hundredths (1.00).

6. Car wash, each rack: one and zero-tenths (1.0).

7. Commercial or public buildings, such as stores, offices and similar uses, having no process water:

(a) Minimum for each building or customer for up to one thousand (1,000) square feet of building area: one and zero-hundredths (1.00).

(b) Each additional one thousand (1,000) square feet of building area, or part thereof: sixty-hundredths (0.60).

(c) Each pair of public rest rooms: forty-hundredths (0.40).

8. Industrial warehouses with no public rest rooms and no process water requirements:

(a) Having less than two thousand (2,000) square feet of gross floor area: one and zero-hundredths (1.00).

(c) Each additional two thousand (2,000) square feet: eighty hundredths (0.80).

9. Churches and nonprofit organization halls (no residence or regular eating facilities): one and zero-hundredths (1.00).

10. Schools, public or private:

- (a) Basic rate, per pupil capacity of fifty (50): two and zero-tenths (2.0). Each additional forty (40) students or fraction thereof: one and zero-tenths (1.0).

11. Swimming pools, hot tubs:

- (a) Each twenty-five thousand (25,000) gallons, or fraction there-of, of swimming pool capacity: one and zero-hundredths (1.00).
- (b) Hot tubs, other than for single-family use, per one hundred (100) gallons: eleven dollars (\$11).

12. Laundromat: one and zero-hundredths (1.00).

- (a) Each washing machine: five-tenths (0.5).

13. The rate for commercial or individual users of unusual nature or using process water will be set individually by the Town Council.

~~14. Out of town tap fee will be one and one-half (1-1/2) the otherwise applicable capital EQR.~~

~~15.~~ 14. For establishments of any kind falling into more than one (1) category, each separate category will be computed individually and all categories totaled for that establishment's total charge.

~~16.~~ 15. Businesses of a seasonal nature which are open less than one hundred twenty (120) days per year shall be required to pay tap fees, as provided for above, unless otherwise determined by the Town Council.

- B. Minimum Delivery Charges and Usage Charges. Beginning October 1, 2019, a quarterly rate of forty-five (\$45.00) per capital EQR (the “Base Rate” or “minimum delivery charge”) will apply to all metered billings. Beginning October 1, 2019, the rates per thousand (1000) gallons of water usage per quarter, per usage tier, per capital EQR, are as set forth in the Gallons/Rate table below. The usage charges shall be in addition to the Base Rate.

In each subsequent year, to and including the year 2024, the Base Rate, and each of the tiered rates set forth below shall increase by five (5%) percent over the prior year’s rates, respectively, as of October 1 of each year.

Gallons

Rate

No usage included in base rate Rate”)/EQR	\$45.00 (“Base
1 to 8,000 gallons/EQR	\$1.12 per 1,000
8,001 to 16,000 gallons/EQR	\$2.24 per 1,000
16,001 to 50,000 gallons/EQR	\$4.00 per 1,000
50,001 and greater gallons/EQR	\$5.00 per 1,000

Temporary construction water shall be billed at one dollar and fifty cents (\$1.50) per thousand gallons used, plus a hydrant connection fee of twenty five dollars (\$25).

C. Malfunctioning Meters. There shall be a flat rate for malfunctioning meters in the amount of two (2) times the Base Rate.

D. Late Payment Charges, Late Notice Fees, Water Shut-Off and Reinstatement Fees.

All water accounts are subject to a finance charge for late payment at an annual percentage rate of eighteen percent (18%) (monthly rate of one and one-half percent (1.5%)) of the total past due balance. For any account with a past due balance, a late payment notice shall be sent to the customer and a fee of five dollars (\$5.00) shall be charged to the account for the sending of the notice. For any account with a past due balance in excess of thirty (30) days, a shut-off notice shall be sent to the customer by certified mail, return receipt requested and a fee of ten dollars (\$10.00) shall be charged to the account for the sending of the notice. For any customer that does not respond to the shut-off notice within the five (5) days set forth in the notice, a peace officer shall post a shut-off notice on the property and the Water Department shall locate the curb stop and shut off water service to the property. A fee of fifty dollars (\$50.00) shall be charged to the account for the shut-off and posting of the notice. For any customer whose water service has been shut off, a reinstatement fee of one hundred dollars (\$100.00) shall be charged for the reinstatement of water service.

E. Water taps, once issued, shall remain with the property to which they are issued and shall not be transferable. In the event a building for which a plant investment fee has been purchased is removed or razed, quarterly user fees in the amount of one-half (1/2) EQR shall be assessed against the property to maintain the presence of the plant investment fee. In the event that the user fees become delinquent for more than six (6) quarters [eighteen (18) months] the plant investment fee is forfeit, and resumption of

water service to the premises shall require a new plant investment fee.

- F. User fees. Payment of water user fees shall begin twelve (12) months after the issuance of building permit from the building department or upon the issuance of a certificate of occupancy, whichever occurs first.
- G. Except for water service outside of town for users that have provided water rights or cash in lieu of water rights pursuant to this Chapter, Ffor supplying water to users outside the Town, the charge shall be two (2) times the applicable rate within the Town; provided, however, that for any dwelling unit outside the Town that was in existence as of July 1, 2022~~March 1, 2023~~, the charge shall be the same as the applicable rate within Town if the dwelling unit is deed restricted: (i) as affordable or work force housing; or (ii) for water usage according to the limitations as set forth in subsection 171-6.B(iv) above.
- H. Responsibility for water payments.
 - 1. All water fees shall be charged against the owner of the property served and shall be a lien upon the respective lots or parcels of land where said water is used from the time when due and shall be a perpetual charge against said lots or parcels until paid.
 - 2. In the event that a notice of non-payment is sent, an administration fee shall be added to the required payment. In the event that the water to any premises is shut off for nonpayment, the Water Superintendent shall not reinstitute service until all sums remaining due for water service and other fees are paid either by the owner, occupant, new owner or other person who may pay the same.
 - 3. Water fees shall be due and payable each quarter. In the event that the same is not paid, the Water Billing Clerk shall notify the delinquent user by certified mail, with return receipt, that the payment has not been received. If payment has not been received seventy-two (72) hours after acknowledgment of notification, the Water Superintendent shall cease the delivery of water to the premises by turning off the water at the curb stop.
 - 4. All payments for water service and other fees prescribed hereunder shall be made to the Town Treasurer to be deposited by the Treasurer to the Water Fund.
 - 5. Until paid in full, all service charges, including but not limited to rates, fees, tolls, minimum charges, disconnection fees, reconnection fees and reasonable penalties for delinquencies, including interest on delinquencies from any due date at a rate determined by Council, reasonable attorney fees and other costs of collection, for the use of services furnished by or for the direct or indirect connection with town water facilities shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanics' liens.
 - 6. Nothing in the above shall be construed to limit the town's legal remedies to collect fees.

- I. Paper Water billing Fee. Commencing with the periodic billing statement issued by the Town in January, 2023, there shall be added to each paper billing statement mailed by the Town, and there shall be assessed and paid by the owner of the property that is the subject of the billing statement, a paper water bill fee. The paper water bill fee shall be due and payable to the Town at the same time and in the same manner as other water charges are due and payable under this chapter. There shall be no paper water bill fee charged if the owner elects to have the billing

statement delivered by the Town's electronic billing means. The Finance Director shall establish the paper water billing fee, and amend the fee from time to time, in an amount reasonably necessary to recoup the Town's cost in processing and sending paper bills, and to encourage the electronic receipt of such bills from the Town. In order to incentivize the receipt of periodic billing statements by electronic means, the Finance Director may waive up to Forty Dollars (\$40.00) in accumulated paper water bill fees for any single property.

Section 5. Subsection 171-15 of the Code, concerning the requirement for issuance of a building permit before the sale of a water tap, is hereby amended to read as follows:

§ 171-15. Issuance of Building Permit Required.

- A. No water tap shall be sold by the ~~town~~Town except in conjunction and simultaneously with the issuance of a building permit by the appropriate authority having jurisdiction.
- B. At the time the Building Official of the Town of Frisco or the appropriate authority having jurisdiction declares a building permit to be expired, all water taps for said permit shall be rescinded, and the water tap fees shall be refunded in the amount paid to the customer without interest.

Section 6. Effective Date. This ordinance shall become effective in accordance with the home-rule Charter of the Town of Frisco, Colorado.

INTRODUCED, PASSED ON FIRST READING AND PUBLICATION AND POSTING
ORDERED THIS _____ DAY OF _____, 2023.

ADOPTED ON SECOND AND FINAL READING AND PUBLICATION BY TITLE
ORDERED THIS _____ DAY OF _____, 2023.

TOWN OF FRISCO, COLORADO:

Hunter Mortensen, Mayor

ATTEST:

Stacey Nell, Town Clerk