



## MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

**TO:** MAYOR AND TOWN COUNCIL  
**FROM:** JEFF GOBLE, PUBLIC WORKS DIRECTOR  
**RE:** ORDINANCE 23-05: APPLICATION, APPROVAL AND OPERATION OF EXTRA-TERRITORIAL WATER TAPS.  
**DATE:** APRIL 25, 2023

**Summary and Background:** In the past, there have been several requests from private homeowners that were having problems with their water wells, so they approached the Town to ask about connecting to the Town's water system. Staff believes that this trend will continue in the future with more requests than we have had in the past. Chapter 171 of the Town Code is rather ambiguous when it comes to these requests as it simply states, "the Town Council has sole discretion in approving or denying extra-territorial water service requests". The code as it currently stands has no application process for the public or the Council to follow when these requests are made. With this in mind, Council requested that staff work with our Town Attorney, Water Attorney and Water Rights Engineer to design a process that protects the Town's water rights and ensures that there will be a sufficient supply of water for both in-town and out of town development. This Ordinance to amend chapter 171 does just that.

**Analysis:** During the work session with Council on February 14, 2023, staff noted several concerns from Council members that needed to be addressed. The team has met several times since then and have used this time to incorporate the comments received and to fine tune the planning tool. The Ordinance before you tonight reflects those changes. The purposes of the ordinance are to amend Chapter 171 of the municipal code to establish the terms and conditions on which the Town will agree to deliver municipal water to taps outside Town limits while ensuring the sufficiency and stability of the municipal water supply for all Town water users; and to establish parameters for the Town's evaluation of requests for such taps. The attached draft ordinance creates a process for property owners to formally apply to the Town for extraterritorial water connections and give staff and Council some criteria to either approve or deny such requests. We will dive deeper into the process during the work session, but here are some highlights of what this amendment does:

1. Creates and actual application and process to evaluate said requests.
2. Creates an application fee structure.
3. Defines the amount and seniority of wet water that an applicant would need to bring to the Town.
4. Creates a cash in lieu of water right dedication process where equitable, reasonable, and sufficient fees will be determined by the newly created water planning and fee evaluation tool.
5. Sets certain parameters that must be met for approval of any application (i.e., well abandonment, connection to sanitation sewer system, etc.)
6. Creates several other administrative requirements for Council to consider when evaluating any application.
7. Removes the provisions of charging 1-1/2 times the current in town tap fee and 2 times the quarterly user fees (water bill).

Changes made after Council comments received:

1. Codifies the ability of the Town to charge a fee for paper bills.
2. Further defines outdoor watering by hand.
3. Changed the in-town delivery commitment from 0.55 acre-ft to 0.44 acre-ft (this change was made after further analyzing actual customer meter readings and usage).
4. Changed the out-of-town delivery commitment from 0.44 acre-ft/year to 0.23 acre-ft/year (this change was made after further evaluation of other water providers where outdoor watering is prohibited).
5. The water planning tool was further refined by removing many of the assumptions that were made and instead using actual data points and industry norms.

The following is a summary of how the delivery commitments were developed:

1. In-Town Per-Tap Water Delivery Commitment = 0.44 AF/yr/EQR
  - a. We took the high diversion (drought) year of 2012, and used the total diverted water from the Town Ditch in total acre-feet per year (AF/yr). This was 812 AF/yr for 2012.
  - b. We took the 812 AF/yr and divided it by the adjusted EQRs to account for the 45 percent second home rate.
  - c. To determine the adjusted EQRs... Total Housing Units of 3,352 (Demography Office) and multiplied that number by the occupied housing rate of 55% = 1,844 EQR (residential).
  - d.  $812 \text{ AF/yr} / 1,844 \text{ EQR} = 0.44 \text{ AF/yr/EQR}$
2. Extra-territorial Per Tap Water Delivery Commitment = 0.23 AF/yr/EQR
  - a. We used 2022 meter record data filtered for single-family and multi-family residences.
  - b. Filtered meter data shows approximately 420 AF/yr was used for residences.
  - c. We took the 420 AF/yr and divided it by the adjusted EQRs to account for the 45 percent second home rate.
  - d. To determine the adjusted EQRs... the Total Housing Units of 3,352 (Demography Office) and multiplied that number by the occupied housing rate of 55% = 1,844 EQR (residential).
  - e.  $420 \text{ AF/yr} / 1,844 \text{ EQR} = 0.23 \text{ AF/yr/EQR}$

The E-T offers some conservativeness as the state average (CDPHE wastewater values) is about 0.21

AF/yr/EQR assuming 2.5 persons per home and 75 gallons per capita per day (noted in their Reg 43).

**Financial Impact:** The financial impact to the Town is unknown and will vary as it will depend on how many applications are received and approved. This new application process is designed so that any costs the Town incurs during the application process will be reimbursed by the applicant. These funds will be recorded into the operating fund side of the Water Enterprise where they will be used to defray the costs of this process.

The payments of cash in lieu of water right dedication will be reserved within the Water Enterprise, acting as a “savings account” to help pay the costs of future water rights purchases or to pay the costs of future water court cases to modify the Town’s augmentation plan as needed.

**Alignment with Strategic Plan:** This ordinance amendment aligns with the Quality Core Services section of the Strategic Plan, by ensuring the availability of a dependable water supply, both legally and physically, to current and future generations of Frisco area residents and visitors.

**Environmental Sustainability:** This ordinance amendment aligns with the environmental sustainability goals by ensuring we are being good stewards of the Towns water supply infrastructure.

**Staff Recommendation:** It is staff’s recommendation that the Council review, discuss and approve on first reading Ordinance 23-05. If Council desires any changes at first reading, those changes will be incorporated into the Ordinance for second reading on May 9, 2023. It is staff’s goal to have this application process active starting for the 2023 construction season.

**Approved By:**

Tom Fisher, Town Manager  
Leslie Edwards, Finance Director  
Thad Renaud, Town Attorney

**Attachments:**

Attachment 1: Ordinance 23-05

Attachment 2: Outline of changes to Chapter 171

Attachment 3: Planning Tool