



Town of Frederick
Board of Trustees Agenda

Frederick Town Hall
Board Chambers
401 Locust Street
Tuesday, February 06, 2024

6:00 P.M.
Work Session

1. Chapter 13 FMC, Article 2 Update
2. Draft Water Allocation Policy

Board of Trustee Work Sessions are not livestreamed. Interested parties are invited to attend the meeting in person. The next livestreamed meeting will be held on Tuesday, September 12, 2023 at 7:00 PM at Town Hall (401 Locust Street). If you have questions about meeting attendance, work sessions, regular meetings or matters related to Board of Trustee Meetings please contact the Town Clerk's Office:

Kelly Green, Deputy Town Clerk
kgreen@frederickco.gov
720-382-5500

Or

Emily Nitcher, Assistant Town Clerk
enitcher@frederickco.gov
720-382-5500

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TOWN OF FREDERICK

Board of Trustees

Information Memorandum

Tracie Crites, Mayor

Dan March, Trustee
Mark Lamach, Trustee
Kevin Brown, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Proposed Concepts for Municipal Code Update – Chapter 13 Article II

Agenda Date: Town Board Work Session - February 6, 2024

Attachments:

- a. Water Dedication Requirements
- b. Water Efficiency Plan Excerpt

Submitted by: **Kylie Couch & Sarah Watson**

Civil Engineers

Approved for Presentation: **Bryan Ostler**
Town Manager

Strategic Plan Alignment:



Strategic, Reliable & Sustainable Infrastructure – Incorporating water conservation into land use and municipal code is discussed in the Town’s 2022 Water Efficiency Plan. The Water Efficiency Plan aligns with the Town’s dedication to investing in strategic, reliable, and sustainable infrastructure in supporting water conservation programs that will help create a sustainable future for the Town of Frederick.

Summary Statement:

In line with the Strategic Plan and Board direction, Town Staff has been working on updating the Municipal Code, Article II Water Utility. In addition to revisions to bring the Water Utility Code to industry standards, some substantial changes proposed in the update to Chapter 13, Article II of the Town’s Municipal Code are in Section 13-80 ‘Waste of Water’ to promote water conservation.

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Detail of Issue/Request:

In 2023 staff proposed update to Chapter 13 Article II Division 2 to revise the Town's water dedication requirements and add clarity to the Town's water dedication requirements and fees. At the time staff were proposing to update that Division due to the impacts to the Town's water portfolio and the Town's water conservation goals. Since then, staff has investigated proposed updates to the other divisions to incorporate updates to address protecting the Town's water portfolio, water industry changes, general requirements and miscellaneous provisions, and additional water conservation methods.

The staff is recommending updating section 13-80, Waste of Water as it lacks specificity and does not support prevention of water waste. Staff is recommending that the Section be renamed 'Wise Water Use.' The Section currently states:

“As a condition of receiving water service from the Town, the applicant must agree to cooperate with the Town to prevent the waste of water. The owner of any water-using unit or water-using property who flagrantly and/or repeatedly violates the intent of this Article shall be subject to the penalties prescribed in Chapter 1 of this Code.”

Staff researched code language that is commonly included in the waste of water sections of Municipal Code and is recommending some new concepts be included in this update to the Town's Municipal Code. The most substantial changes staff is recommending include a watering schedule that would dictate when outdoor watering is allowed, lawn permits for the installation of additional turf in landscaped areas, and a requirement that landscape and irrigation designers obtain professional certification.

Staff would like to address the following items in this update to Chapter 13, Article II, Section 13-80 during the work session:

1. Watering schedule for landscaped areas
 - a. Requirements:
 - i. Turf may be watered not more than three days per week, even addresses on Saturday, Monday, and Wednesday and odd addresses on Sunday, Tuesday, and Thursday
 - ii. Turf shall not be watered between 10:00 a.m. and 6:00 p.m., except for very short periods of time to adjust or repair an irrigation system
 - iii. Newly planted turf seed or sod may be watered as needed and appropriate for up to 21 days for sod and 28 days for seed
 - iv. Exempt: Large functional turf areas located on school property, Town maintained public areas, public parks, recreational fields, golf courses, parks in residential developments, and other similar properties
 - v. Vegetable gardens may be watered as needed
 - b. To support the implementation of a watering schedule and the overall goal of water efficiency, the Town offers following programs:
 - i. Rebates of up to \$200 for WaterSense certified irrigation controllers. Irrigation controllers help conserve water using local weather data and landscape information to create a customized watering schedule. The \$200 rebate will cover the cost of most irrigation controllers.
 - ii. Resource Central's Slow the Flow program. Slow The Flow gives residents access to free sprinkler efficiency evaluations that aim to help residents reduce water use by optimizing their sprinkler systems efficiency.

2. Lawn Permits

- a. Background: In August 2023 the Town adopted new Water Dedication requirements that made the amount of water required for dedication for properties within the Town's potable water system dependent on land use and outdoor water use. Meaning, moving forward under this new code, the amount of water allocated to a property is tied to the landscaping approved by staff during site plan and/or development project review. Lawn permits will allow Town staff to check that, when installing additional turf in landscaped areas, property owners aren't exceeding the amount of water allotted to their property.
- b. Requirement: Property owners looking to install additional turf in landscaped areas will be required to apply for a Lawn Permit before doing so. Engineering staff will evaluate whether the amount of additional turf identified in the Lawn Permit Application will cause that property to exceed its water allotment. This process will help prevent property owners from unknowingly exceeding their water allotment and potentially having to pay for more water or remove new landscaping.

3. Professional Landscaper Certification

- a. The Town's Water Efficiency Plan outlines the next step in water efficient landscaping and irrigation to be the addition of a requirement for landscape and irrigation designers to have professional certification. These professional certifications can be Qualified Water Efficient Landscaper (QWEL) and/or certifications available through the Irrigation Association.
- b. This will directly impact contractors doing landscaping and irrigation work in Frederick, for this reason staff recommends delaying the effective date of this requirement.
- c. This requirement would not apply to landscape design or irrigation design being done on individual single-family residential lots but would be targeting development to ensure that future residents are provided with high quality landscaping and irrigation systems.

Legal Comments:

Staff will continue to work with the Town Attorney's Office to complete a draft of Municipal Code Chapter 13, Article II, Division 1 and 3.

Alternatives/Options:

The Board could choose to eliminate or change any of the recommendations outlined by staff. This could include changing the proposed timing recommended in the watering schedule or not having a watering schedule in the code.

Financial Considerations:

Staff will work internally to draft code. No additional funds will be requested.

Staff Recommendation:

Staff in Engineering are supportive of the updates outlined here.

Sec. 13-2-205. Water dedication requirements.

(a) From and after the effective date of the ordinance codified in this Division, any person who seeks approval of any of the following: an extension of water service; subdivision of land; annexation of land to the Town; or any change in land use within or outside the limits of the Town (if such change in land use will increase the demand for Town water service) shall be subject to the water dedication requirements in this Section.

(1) Water right and share dedication requirements for properties within the Town's potable water service area shall be determined through a water dedication analysis prepared by Town staff. The water dedication analysis shall be prepared according to the water dedication schedule below:

Residential

Residential Project Type	Indoor Water Use		
	AF/Unit	CBT/Unit	Gallons/Unit
Single-Family Detached, > 4 Bedrooms	0.22	0.367	71,687
Single-Family Attached	0.2	0.333	65,170
Single-Family Detached	0.2	0.333	65,170
Multifamily	0.17	0.283	55,395

Nonresidential

Business Categories Estimated Indoor Water Use	Units	Use (Gal/Unit/Yr.)
Assisted Living	unit	78,750.00
Auto Service and Repair	Square feet (sf)	27.13
Car Wash with Recycling	bay	81,375.00
Childcare	sf	75.00
Church	sf	39.38
Clubhouse/Pool	unit	175,000.00
Fast Food Restaurant	sf	125.00
Gas Station w/ Car Wash	sf	1,808.75

Nonresidential

Business Categories Estimated Indoor Water Use	Units	Use (Gal/Unit/Yr.)
Gas Station w/o Car Wash	sf	302.50
Grocery Store	sf	48.13
Hospital	sf	74.96
Hotel	room	29,457.50
Industrial	sf	27.50
Medical Office	sf	44.63
Office	sf	10.00
Restaurant	sf	250.00
Retail	sf	36.25
School	sf	15.50
Warehouse (Storage Facility)	sf	8.75
Other (determined by staff)		

Outdoor

Hydrozone*	GPSF	Outdoor Water Use		
		AF per Acre	CBT per Acre	Gallons per Acre
Low	6.00	0.80	1.337	261,360
Medium	12.00	1.60	2.674	522,720
High	18.70	2.50	4.166	814,572

* As determined by Town staff analysis, generally consistent with the following:

- i Low: some shrubs and perennials, buffalo grass, blue grama turf
- ii Medium: some shrubs and perennials, turf type tall fescue
- iii High: Kentucky bluegrass or similar

- (2) All persons and developments are subject to applicable fees and shall be required to record an instrument providing notice that water usage for the property is limited based upon the amount of water dedicated for the property. Limitations of water usage per year shall be maintained by the Town and made available upon request to the property owner or tenant.
- (3) The use of nonpotable native water requires the construction of a dual water system that is functional and reliable as determined and approved by the Town. The native water rights or shares must be used to irrigate all open space, parks, and landscaping within a development through the use of an on-site irrigation pond.
- (4) Colorado-Big Thompson (CBT) water dedicated to the Town after the effective date of the ordinance codified in this Division will be credited at a yield rate of six-tenths (0.6) acre-foot per CBT acre-foot unit.
- (5) The water dedicated to the Town shall be available for diversion at such point or points of diversion as the Town may designate for use and consumption by the Town for municipal purposes. (Ord. 1387 §1, 2023)

The Frederick Municipal Code is current through Ordinance 1387, passed June 13, 2023.

Disclaimer: The Town Clerk's Office has the official version of the Frederick Municipal Code. Users should contact the Town Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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4.3.2.3 OUTDOOR WATER USE MANAGEMENT OF TOWN PROPERTIES

The Town has identified 18 properties that are currently served by potable supplies that can physically and legally be supplied with raw water for irrigation purposes. Conversion of these properties, most of which are parks, will begin in 2022 and are expected to be completed by 2030. Based on historical metered use for these accounts, a reduction in potable water use of about 76.6 AFY is expected. Note that some of these properties are not owned by the Town.

The Town currently maintains a xeriscape demonstration garden at one of its parks. Over the coming years, the Town will install additional xeriscape demonstration gardens throughout its parks with the intent to replace irrigated turf with low water use landscapes and as an educational tool for customers.

Irrigation of the Town's parks is actively managed and current Public Works staff have identified the potential to remove or replace turf in some areas that are not actively used by the public. Staff has also identified opportunities to install smart controllers at public parks. Full development and implementation of a Town parks efficiency program will be managed by the Parks and Open Space Director. It is estimated that up to about 4.9 AFY of water could be saved through these efforts

4.3.3 ORDINANCES AND REGULATIONS

Local ordinances and regulations serve to support water efficiency programs through policies and enforcement mechanisms. The Town's Municipal Code currently includes Waste of Water and Water Shortage sections. The Town's Land Use Code includes requirements for landscape design and the Town's Design Standards and Specifications include both landscape and irrigation design standards.

4.3.3.1 WATER EFFICIENT LANDSCAPING AND IRRIGATION STANDARDS

The Town currently has a comprehensive set of landscaping and irrigation design standards that support efficient water use. These standards are supported through the Town's Land Use Code with the primary focus of preserving the Town's character and integrating new development into the community by promoting quality landscape design. The Town will audit its current design standards to expand requirements to further target efficient water use focusing on new development with the intent to establish procedures for the design, installation, and maintenance of water efficient landscape and irrigation systems. Integration with HOAs will be evaluated as part of this review process.

A key planned addition to the Town's landscape design standards is the application of a landscape water budget for new development permit applications. Landscape designs would be required to stay within a maximum allowed water budget. The allowable water budget will be calculated based upon the local reference evapotranspiration and adjusted using plant factors for specific types of plant materials and the irrigation efficiency. Areas containing plants with similar water needs and within the same irrigation application type are referred to as "hydrozones". Water needs using a specified irrigation efficiency will be summarized by hydrozone and summed to determine the water demand for the full landscaped area. Introduction of the landscape water budget design requirement for new development will support future efforts by the Town to apply a water budget-based billing system.

Another potential addition to the landscaping and irrigation standards is the requirement for landscape and irrigation designers and installers to obtain and maintain a professional certification through an accepted program. The Town will evaluate potential certification programs such as the Qualified Water Efficient Landscaper (QWEL) and those offered by the Irrigation Association. The

Town will also evaluate opportunities to collaborate with neighboring water providers and Northern Water to develop a regional certification program. Upon implementation, selected Town staff with landscape and irrigation management responsibilities will also likely pursue certification. Contractor certification has unmeasured water saving benefits alone but will support savings estimated through the landscape standard revisions.

The Town will consider requiring landscape irrigation audits to be conducted by a third-party certified landscape irrigation auditor. The irrigation audit may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule, including configuring irrigation controllers with application rates, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming. Land Use Code revisions necessary to enforce landscape and irrigation standards will be reviewed and applied as needed. Up to 20 AFY of water savings is estimated by 2030 assuming standards are updated for all new development. Additional savings may be realized if standards also include requirements for redevelopment.

4.3.4 PUBLIC EDUCATION AND INFORMATION

Public education and information are a vital component to many of the Town's conservation programs. An informed and engaged public will more actively participate in adjusting behaviors with efficiency in mind. The Town plans to expand its current education and outreach programs to include additional customer water use workshops and pursue a messaging partnership with Northern Water. The Town will continue to have staff presence at the local Farmers' Market and will expand its printed resources for distribution through that event. The Town will also invite local contractors and businesses to the Farmers' Market to set up booths to provide the public with water use information. This may include landscaping, irrigation, or other professionals that support the efficient use of water. The Town will also organize a separate educational event with contractors and professionals to provide landscaping, irrigation, and water efficiency resources to the public. The planned new low water use and xeriscape gardens throughout the Town will potentially be used as a meeting location for public landscaping and efficient irrigation workshops. The Town sponsors an annual tree sale event, selling around 100 drought-tolerant trees to customers. The Town will consider how to expand this voucher program to include xeric plants. This provides another opportunity for expanded messaging and outreach. The new Conservation Specialist will work closely with the Town's Communications department to advance its conservation and efficiency messaging campaign and formalize an annual messaging schedule. This will include expanding efficiency messaging and resources through the Town's website. While conservation messaging programs help to support a water-wise culture and local stewardship, these programs typically do not result in water savings on their own, but rather support the entire suite of local conservation and efficiency measures.

4.3.5 INTEGRATION OF LAND USE EFFORTS

The Town is fortunate to have land use jurisdiction throughout its water service area. The Town intends to formalize arrangements for sharing data and information between departments that impact its management of water resources including Planning, Engineering, Public Works, and the newly formed Parks department. Regular communication between these departments is foundational to the integration between water and land use planning. These departments will also coordinate on code updates and associated implementation strategies, including the review and revision of the Town's landscape and irrigation standards.

The Town's current Municipal Code allows for a "demand analysis" to be completed when a development project has a dual water system with separate infrastructure that enables potable



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Proposed Water Allocation Policy & Water Allowance

Agenda Date: Town Board Work Session – February 6, 2024

Attachments:

- a. Water Allocation Policy Draft
- b. Municipal Code Section 13-2-230

Submitted by: Kylie Couch
Civil Engineer II

Approved for Presentation: Bryan Ostler
Town Manager

Strategic Plan Alignment:



Strategic, Reliable & Sustainable Infrastructure – Incorporating water conservation into land use and municipal code is discussed in the Town’s 2022 Water Efficiency Plan. The Water Efficiency Plan aligns with the Town’s dedication to investing in strategic, reliable, and sustainable infrastructure in supporting water conservation programs that will help create a sustainable future for the Town of Frederick.

Summary Statement:

On June 13, 2023, Town staff brought the idea of a Water Allocation Policy to the Board. Based on that feedback from the Board, Town staff and the Town’s Land Use Attorney have drafted a Water Allocation Policy. In addition to the Water Allocation Policy, Staff will be discussing the water allowance that will be associated with the policy.

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Detail of Issue/Request:

There are two items to be considered in this work session:

1. Proposed Water Allocation Policy
2. Water allowance that would be associated with the Water Allocation Policy

What is a Water Allocation Policy? A water allocation policy offers water providers and local governments a decision-making structure to dedicate their water resources in accordance with their community's needs and vision. An allocation policy is tailored to suit the strategic goals and priorities of a community by allocating its water supply to categories of development such as specific land use types, economic development, affordable housing, water efficiency, and community infill or revitalization. Annual updates to a Water Allocation Policy are common practice, to ensure that the policy continues to best serve the strategic goals of the community.

The Water Allocation Policy fits within the Town's new water dedication requirements, which became effective in August 2023. Specifically, a Water Allocation Policy would be tied to Section 13-2-230 of the Municipal Code (attached). This section gives the Board the opportunity to set a water allowance for the purpose of offering water credits for purchase. Staff will bring the water planning tool that was developed as part of the Town's water supply planning to this work session to show the Board how the water allowance will be determined. The water allowance is intended to be used for infill and special circumstances, specifically projects that align with the strategic plan adopted by the Board. The Water Allocation Policy clearly outlines how the Town's water portfolio will be used to support the strategic plan and, ultimately, the community's needs and vision.

The proposed Water Allocation Policy identifies three general categories that encompass qualified projects:

1. Key Economic Development Projects – In line with cluster study done by Economic Development
 - a. Key economic development projects shall demonstrate exemplary water conservation, with design and operational standards specified in (or as an attachment to) the Water Allocation Agreement.
2. Critical Land Use Needs
 - a. Affordable Housing
 - b. High-quality office, retail, recreational, or mixed-use development within the 25-52 East Subarea Plan boundary
3. Residential and Commercial Infill on a single lot basis

Notably, the proposed policy outlines reasons for expiration or termination of water allocations as follows:

1. Water allocations that are not timely used (e.g., by way of installation of a meter) as provided in the Water Allocation Agreement will expire and shall thereafter be subject to reallocation by the Town. Fees and expenses paid for water allocations are nonrefundable.
2. Water allocations may be terminated, or flow restrictors may be installed, for any of the following reasons:
 - a. The applicant's material defaults under a Water Allocation Agreement.
 - b. The applicant's flagrant or repeated waste of water in violation of Town Code § 13-80;
 - c. The applicant's failure to comply with a watering restriction under a water shortage contingency plan, in violation of Town Code § 13-81; or
 - d. Material misrepresentations as to whether the applicant's project is a Qualified Development

Legal Comments:

Staff will continue to work with the Town Attorney and Land Use Attorney to complete a final draft of the Water Allocation Policy.

Alternatives/Options:

The Board could choose to not pursue a water allocation policy, this alternative is not recommended because a water allocation policy supports other strategic long term plans the Town has adopted and allows the Town to continue to be strategic in its growth and use of water resources.

Financial Considerations:

Staff will continue to work with consultants on retainer. No additional funds will be requested.

Staff Recommendation:

Staff in Engineering, Planning, and Economic Development are supportive of the updates outlined in the draft provided.

Municipal Water Allocation Policy

1. Overview

- a. *Authority.* This Municipal Water Allocation Policy (“POLICY”) is authorized by Town of Frederick Municipal Code (“TOWN CODE”) § 13-2-230, and is in alignment with the Town of Frederick Strategic Plan.
- b. *Intent.* This Policy is intended to promote economic vitality and sustainability in the Town of Frederick (“TOWN”) by providing the opportunity for Qualified Projects (defined herein) to purchase water credits from the Town’s water portfolio, in lieu of conveying some or all of the water rights to the Town that would otherwise be required by applicable Town ordinances, resolutions, and regulations. This Policy implements Town Code § 13-2-230, and is intended only to provide an alternative to water dedication requirements, and not as a waiver of any other requirements of the Town Code or the Town of Frederick Land Use Code (“LUC”).
- c. *Qualified Projects.* The Board of Trustees (“BOARD”) will allocate available potable water from the Town’s water portfolio to certain types of new development, changes in use, expansions of use, and redevelopment (collectively, “QUALIFIED PROJECTS”) in accordance with this Policy. The Board has selected Qualified Projects for their significant contributions to economic opportunity, housing diversity, housing affordability, and quality of life. Section 4 of this Policy establishes the criteria to determine whether a proposal constitutes a Qualified Project.
- d. *Standard Projects.* Development, changes in use, expansions of use, and redevelopment that are not Qualified Projects (“STANDARD PROJECTS”) are not subject to this Policy. Standard Projects must provide water to the Town that is of adequate quantity, quality, and reliability for the type of development proposed, in accordance with Chapter 13, Article II, Town Code, the LUC, and applicable Colorado law.
- e. *Existing Agreements.* This Policy does not modify or abrogate rights and obligations under valid, enforceable agreements to which the Town is a party, unless provided for therein.

2. General Requirements

- a. *Wastewater Connection Required.* Absent a Board finding of extraordinary circumstances or public benefits that justify the request, no allocations shall

be made pursuant to this Policy if the sewer service requirement of Town Code § 13-54 is not satisfied.

- b. *Water Allocation Agreement Required.* All allocations under this Policy shall be documented by a Water Allocation Agreement that is approved by the Board, which shall set forth the terms and conditions of the allocation, which shall, at a minimum, include all of the following:
- i. The proposed development will be designed, and / or land use operated, as a Qualified Project for a period of time established by the Board, and will demonstrate either exemplary conservation techniques or provision of a critical land use need.
 - ii. The reservation of water will be effective for:
 - 1) A period of one year from the date of reservation, upon which the reservation shall be applied or expire and thereafter be reclaimed into the Town's water portfolio for future allocation; or
 - 2) In the discretion of the Board, for larger developments with an anticipated build-out period of more than one year, a period not to exceed five years, in which case the Board may also impose annual reductions in the number of available credits (without penalty for credits already applied), in a proportion established by the Board with due regard to the proposed schedule and phasing of the development.¹
 - iii. Each phase of a phased development must comply with the terms and development schedule of the approved Water Allocation Agreement before the next phase can begin.
 - iv. Fees paid for water allocations are nonrefundable.
 - v. In the event the Town determines that the applicant has defaulted as to its obligations, then until the default is corrected (and in the event of water losses, such water losses mitigated to the satisfaction of the Town): (A) no new building permits will be issued, (B) no new

¹ For example, if 100 credits were allocated, then 100 credits would be available in years 1 and 2. Starting in year 3, the number of credits could be reduced by 25 percent per year, such that 75 credits would be available in year 3, 50 credits in year 4, 25 credits in year 5, and 0 credits at the start of year 6. No penalties would be assessed for the timely (or early) application of water credits, such that if the applicant used 50 of its 100 credits in year 1 (leaving 50 credits for future use), then no further reduction in available credits would occur until year 5, when the number of available credits is reduced from 50 to 25.

connections to the water system will be permitted, and (C) certificates of occupancy will be withheld as to active building permits.

- vi. If a default is not corrected within nine months, or such other time period as agreed to between the Board and the applicant, all water allocations made to the applicant that are unused will be reclaimed.

3. Timing of Policy Application.

- . *Initiation of Review.* This Policy may be applied only after the applicant submits a complete application for an approval under the LUC (e.g., a subdivision, site plan, or conditional use), the building code (a building permit for new construction, or a building permit for an expansion, remodel, or tenant finish that involves a tap or meter size change), or any other approval required by Town Code or the LUC. Town Staff shall thereafter conduct a water demand analysis in accordance with Town Code § 13-2-205.
- a. *Determination of Qualified Project Status.* The Town Manager or designee shall determine whether the application referred to in Section 3.a., above demonstrates that the request constitutes a Qualified Project. The Town shall thereafter notify the applicant in writing as to the decision. The decision may be appealed to the Board in accordance with LUC § 4.7.7.
- b. *Allocation of Water.* If the Town Manager or Board determines that a proposal constitutes a Qualified Project, then, provided that water of sufficient quality, quantity, and reliability is available, water allocation credits shall be made available for purchase pursuant to a fully-executed Water Allocation Agreement. Purchase of water allocation credits shall constitute a reservation of water from the Town's water portfolio for the period specified in the Water Allocation Agreement.

4. Qualified Projects. The Board may consider the categories of projects that are listed in this Section to be Qualified Projects.

- a. *Key Economic Development Projects.*
 - i. Key economic development projects include the following:
 - 1) Research and industrial facilities that are directly involved in biosciences / biotechnology product manufacturing; control, electromechanical, measuring, and navigational instruments; clean technology; medical equipment and supplies manufacturing; and recreational vehicle manufacturing.
 - 2) Research, industrial, wholesale, or warehousing and distribution facilities that principally provide components,

supplies, or professional or technical support for the industries listed above.

- ii. Key economic development projects shall demonstrate exemplary water conservation, with design and operational standards specified in (or as an attachment to) the Water Allocation Agreement. Such design and operational standards shall result in the development and / or land use materially outperforming (in the aggregate, and from a conservation standpoint) comparable development that adheres to the minimum standards of the Town Code, LUC, and Colorado Plumbing Code.

b. *Critical Land Use Needs.*

- i. Critical land use needs are:

- 1) Affordable housing, as defined in C.R.S. § 29-32-101(2), which is subject to a deed restriction that ensures that resales or rentals continue to qualify as affordable for not less than 50 years.
- 2) High-quality office, retail, recreational, or mixed-use development within the 25-52 East Subarea Plan boundary in a form and at a scale that the Board determines will have a catalytic effect as to the further implementation of the 25-52 East Subarea Plan.

- ii. Projects that address a critical land use need shall provide one or more of the critical land uses listed above, and the allocation shall be made only for such uses. Application materials shall also demonstrate that the project will outperform (in the aggregate, and from a conservation standpoint) comparable development that adheres to the minimum standards of the Town Code, LUC, and Colorado Plumbing Code.

c. *De minimus Impact.* Projects with *de minimus* impacts are:

- i. New construction of a single-family detached dwelling unit on an infill residential lot.²
- ii. Establishment of a commercial or industrial use on an infill nonresidential lot, provided that the allocation does not exceed 1.8 acre-feet per annum.

² For the purposes of this subsection 4.c., an infill lot is a platted lot that is within a subdivision within which not less than 80 percent of the lots (with fractions dropped) are developed, and which is not already subject to an agreement with the Town that addresses the dedication of water to the Town or the payment of fee-in-lieu for same (e.g., a Water Allocation Agreement, MOAPI, or other comparable agreement).

5. Expiration and Termination of Water Allocations.

- a. Water allocations that are not timely used (e.g., by way of installation of a meter) as provided in the Water Allocation Agreement will expire, and shall thereafter be subject to reallocation by the Town. Fees and expenses paid for water allocations are nonrefundable.
- b. Water allocations may be terminated, or flow restrictors may be installed, for any of the following reasons:
 - i. The applicant's material default under a Water Allocation Agreement;
 - ii. The applicant's flagrant or repeated waste of water in violation of Town Code § 13-80;
 - iii. The applicant's failure to comply with a watering restriction under a water shortage contingency plan, in violation of Town Code § 13-81; or
 - iv. Material misrepresentations as to whether the applicant's project is a Qualified Development

6. Review and Amendment.

- a. *Annual and Periodic Review.* The Board intends to review the goals, standards, and procedures contained in the Policy in September of each year, and at other times as the Board determines appropriate (e.g., upon acquisition of additional water supply).
- b. *Amendment.* Upon review, the Board may amend this Policy by resolution as it determines appropriate.

Sec. 13-2-230. Dedications for infill or special circumstances.

An annual cash-in-lieu allowance may be set by resolution by the Board of Trustees. The Board of Trustees by resolution may delegate the authority to accept cash-in-lieu water rights or shares for the following limited purposes:

- (a) Water dedication requirement per one (1) single-family residential infill lot;
- (b) Water dedication requirement per one (1) commercial/industrial lot, not to exceed 1.8 AF.
- (c) Or as a project aligns with the goals of the strategic plan adopted by the Board of Trustees.

Such authority may be limited to a total number of dedications per year, total number of acre-feet per year, or other restrictions as determined by the Board of Trustees to ensure an adequate and stable supply of water to all Town water users, to ensure the financial stability of the Town water utility and to promote the general welfare of the public. (Ord. 1387 §1, 2023)

The Frederick Municipal Code is current through Ordinance 1387, passed June 13, 2023.

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