

SUMMIT COUNTY SERVICE AREA #3

RESOLUTION NO. 2023-03

**REVISING REGULATION #2021-05 REGARDING WATER USE EXACTIONS,  
ACCESSORY DWELLING UNITS, AND MAKING CONFORMING EDITS**

WHEREAS, Summit County Service Area #3 (the “**Service Area**”) was established to provide culinary water service to certain properties within the Silver Creek Estates Subdivision, among other responsibilities; and

WHEREAS, the Utah Legislature recently passed S.B. 158, which makes changes to the process public water suppliers like the Service Area must follow when requiring culinary water dedications; and

WHEREAS, S.B. 158 requires public water suppliers to: (1) base water dedications on the system-wide minimum sizing standards the Utah Division of Drinking Water establishes for their systems; and (2) apply lower dedication amounts for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for similar land uses within the public water supplier’s service area; and

WHEREAS, S.B. 158 also includes an exemption (the “**Exemption**”) that allows public water suppliers to approve dedications for water amounts that are less than what the Utah Division of Drinking Water’s system-wide minimum sizing standards would otherwise require if the public water supplier determines that “there is good cause to do so;” and

WHEREAS, the Board of Trustees (“**Board**”) desires to amend its water service regulation to conform with S.B. 158; and

WHEREAS, given the limited amount of water available in the Snyderville Basin where the Service Area is located, the Board is concerned that the Exemption will insert a level of subjectivity that will result in disparate treatment of similarly situated constituents and result in water dedications that are insufficient to meet the Service Area’s current and future water needs, and, as a result, the Board desires to amend its water service regulation to prohibit the use of the Exemption for water dedications; and

WHEREAS, it is the Board’s practice to regularly review the Service Area’s water usage and to adjust its water dedication requirements accordingly; and

WHEREAS, the Service Area’s engineer has reviewed the Service Area’s water usage and determined that the average indoor water use is 0.28 acre-feet per year (**Exhibit 1**), which means that the total average indoor and outdoor use for lots with a 0.75-acre-foot allotment is 0.55 acre-feet and the total average indoor and outdoor use for lots with a 1.0 acre-foot allotment is 0.79 acre-feet; and

WHEREAS, the Board also desires to update the water service regulation to account for the new water usage amounts and to account for recent legislation regarding accessory dwelling units; namely: (1) H.B. 82, which the Utah Legislature enacted in 2021 to designate internal accessory dwelling units as a permitted use in any area zoned primarily for residential use, such as Silver Creek Estates; and (2) S.B. 174, which the Utah Legislature passed in 2023 to provide that internal accessory dwelling units also encompass habitable spaces located within a garage if the garage is connected to the primary dwelling by a common wall; and

WHEREAS, the Service Area's Board of Trustees desires to amend its water service regulations to conform to include a definition of accessory dwelling unit that uses terminology that is similar to and otherwise conforms with H.B. 82 and S.B. 174, as well as Summit County's definition as found in Section 10-8-5(A) of the Summit County Code, or applicable successor statutes and ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees that:

1. The Board finds that the Utah Division of Drinking Water has not yet established system-wide minimum sizing standards for the Service Area's system, but the Board nevertheless directs the Service Area's water operator, engineer, and attorney to review such standards when they become available and provide recommendations to the Board as to whether additional revisions to the Service Area's water service regulations are required.
2. The Board finds that the Service Area's engineer and attorney have reviewed the Service Area's water dedication amounts and have determined that such amounts comply with S.B. 158 because the amounts are based on the most recent data available to the Service Area and allow for lower dedication amounts for developments with lower water use (e.g., accessory dwelling units);
3. Once the Utah Division of Drinking Water has established a system-wide minimum sizing standard for the Service Area's system, the Board will reevaluate its Service Area Regulations and may make any edits that they deem necessary; and
4. The relevant portions of Service Area Regulation 2021-05 are revised pursuant to **Attachment A**, which repeals and replaces any conflicting water regulation or policy of the Service Area.
5. Pursuant to Utah Code 17B-1-120(2)(iv), as amended by S.B. 158, the Service Area's general manager is directed to work with the Service Area engineer to post the methodology the Service Area used to develop its water dedication requirements to the service Area's website.
6. The Board directs the Service Area staff to create and implement any policies, forms, templates, or other documents needed to implement this regulation.
7. This regulation will go into effect on October 1, 2023.

ADOPTED AND APPROVED by majority vote at a duly called meeting of the Board of Trustees on this 19<sup>th</sup> day of September, 2023.

SUMMIT COUNTY SERVICE AREA NO. 3

  
\_\_\_\_\_  
Paul Kraus, Chair

ATTEST:



\_\_\_\_\_  
Larry Elbert, Board Clerk

VOTING

Suzanne Carpenter voting	Yea
Lori Daniells voting	Yea
Larry Elbert voting	Yea
Paul Kraus voting	<u>Yea</u>
Scott Sharp voting	Absent
VACANT	<u>N/A</u>
VACANT	<u>N/A</u>

# ATTACHMENT A

## *Revisions to Summit County Service Area #3 Water Service Policy*

Service Area Regulation #2021-05 is revised and replaced as follows:

1. **Section 1.0 is amended and renumbered to read as follows (revisions in strikethrough and underline):**

*1.1 Accessory Dwelling Unit. Accessory Unit is defined the same as the definition codified in Summit County Code § 10-8-5 (A) but excludes a primary dwelling unit that exceeds 1,000 square feet.*

*1.2 Allotment. A portion of the water rights owned by the Service Area that has been approved by the Utah Division of Water Rights to serve a platted lot located within the Service Area and entitles the owner of such a lot to receive water service from the Service Area, either through the Service Area's water system or through an individual well pursuant to the Service Area's rules and regulations.*

*1.3 Applicant. A party owning real property within the Service Area who is seeking to connect the property to the Service Area's water system or who is seeking permission to divert an allotment from an individual well located on the party's property.*

*1.4 Approved Backflow Assembly. A backflow assembly approved by the Utah Division of Drinking Water, as meeting an applicable specification or as suitable for the proposed use.*

*1.5 Back-pressure. The flow of water or other liquids, mixtures, or substances under pressure into the distribution pipes of a potable water supply system from any source or sources other than the intended source.*

*1.6 Back-siphonage. The flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of a potable water supply system from any source other than the intended source, caused by the reduction of pressure in the potable water supply system.*

*1.7 Backflow. The reversal of the normal flow of water caused by either back-pressure or back-siphonage.*

*1.8 Backflow Prevention Assembly. An assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Utah Plumbing Code, Chapter 6 and the Cross Connection Control Program of Utah. All backflow*

prevention assemblies must be approved by the Utah Division of Drinking Water prior to installation. A listing of these approved backflow prevention assemblies may be found in the Cross Connection Control Program for Utah.

1.9 Board. The Board of Trustees of the Service Area.

1.10 Capital Improvement Reserve Fund. A reserve fund for capital improvements which is funded from revenues provided by water sales, connection fees, or special assessments arising from water service to properties connecting to the system.

1.11 Commitment-of-Service-Letters or Start Card. A letter issued by the Service Area to Summit County under Section 4.5 on behalf of an applicant, indicating the Service Area's willingness and capability to provide water distribution services through its water system to the applicant's property as a precondition to Summit County's issuance of a building permit. This letter will be issued in a form and manner that is consistent and compliant with the applicable Summit County concurrency regulations.

1.12 Contamination. An impairment of the drinking water quality of the potable water supply by any physical or chemical change in water or by sewage, industrial fluids or waste liquids, irrigation or other non-potable water, compounds or other materials to a degree which creates a violation of primary and/or secondary drinking water standards or an actual or potential hazard to the public health through poisoning or through the spread of disease.

1.13 Cross Connection. Any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other of which contains water from a non-Service Area source or non-potable water or storage tanks or reservoirs of questionable safety, through which, or because of which, backflow may occur into the potable water system, including any temporary connections such as swing connections, removable sections, four-way plug valves, spools, dummy sections of-pipe, swivel or change-over devices or sliding multiport tubes.

1.14 Cross Connection—Containment. The installation of an approved backflow assembly at the water service connection to any premises where it is physically and economically infeasible to find and permanently eliminate or control all actual or potential cross connections within the owner's water system, or the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of an owner's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection.

1.15 Cross Connection—Controlled. A connection between a potable water system and water from a non-Service Area source or a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford protection from contamination to the public water supply.

1.16 Customer. The owner of an existing residential or nonresidential structure or property that is connected to the water distribution system for the purpose of receiving retail water service from the Service Area.

1.17 Dedicator. A party owning real property within the Service Area applying for permission to dedicate water rights to the Service Area pursuant to Section 16.

1.18 Distribution Mains. The Service Area water pipes in the roads and other easements, including the main transmission lines to which an individual service line is connected for the purpose of receiving water distribution services.

1.19 Dry Lot. A platted lot within the Service Area that lacks an allotment or is otherwise unable to connect to the Service Area's water system or use the Service Area's water rights.

1.20 General Manager. The Service Area General Manager is an individual who may be an employee or contract agent of the Service Area who is vested with the authority and responsibility for the administration of the Service Area and its regulations.

1.21 Individual/Private Well. Privately owned wells that are authorized to divert water rights that are owned by the Service or privately owned water rights and approved for use on individual lots by the Utah State Engineer.

1.22 Lower Lots. Those lots located in Plats D, E, F, G, H, and I of Silver Creek Estates.

1.23 Non-Residential Water Service. The sale of water through the Service Area's water system for any use that does not qualify as residential water service under Section 1.25.

1.24 Owner or Lot Owner. The record owner of a platted lot within the Service Area.

1.25 Primary Dwelling Unit. Means the same as a "primary dwelling" as defined in Utah Code § 10-9a-530 or applicable successor statute.

1.26 Regulation. This Water Service Regulation.

1.27 Residential Water Service or Residential Water Use. The sale and use of water through the Service Area's water system to single family homes, including single family homes with one authorized accessory *dwelling* unit ~~or other extended family dwelling units~~ but excluding duplexes, triplexes, apartment buildings, and any and all other forms of multifamily units.

1.28 Service Area. Summit County Service Area #3, a local district of the State of Utah created by Summit County and a political subdivision of the State of Utah.

1.29 Service Area Water System, Water System, or System. The primary water storage transmission lines, wells, pump stations, and other off-site water system improvements and

appurtenant facilities owned by the Service Area to develop, transport, and distribute water to individual customers within Service Area boundaries.

1.30 Service Lines/Water Laterals. The water service pipe from the Service Area system that provides water to a customer. The service line and Backflow Prevention Assembly is the property of the customer. The customer is responsible for the maintenance of the service line and backflow prevention assembly. A service line is also known as a water lateral.

1.31 Standby Maintenance Fee. A fee imposed upon the owner of the property which can be served by the Service Area, not connected to the system, to partially offset the cost of maintaining water distribution system capacity for a property to receive water services upon connection.

1.32 Theft of Service. Any unauthorized connection to the Service Area's water system or where water service is obtained by deception, threat, force, or any other means knowingly designed to avoid the due payment for the services. Theft of service will be criminally prosecuted. Under state law, criminal penalties for theft of service can range from a class B misdemeanor to a third-degree felony, depending upon the amount of the theft as designated in state law.

1.33 Unmetered Water Usage. Water usage that is not measured through a meter, including but not limited to; inoperative meter, bypassed meter, fire hydrant water, irrigation connected to the water system before the meter, and/or a meter that has been tampered with or otherwise bypassed. The Service Area reserves the right to estimate and collect for loss of revenue due to unmetered water usage whether deemed willful or not.

1.34 Upper Lots. Lots located in Plats A, B, and C of Silver Creek Estates.

1.35 Water Operator. The Service Area Water Operator is an individual who may be an employee or contract agent of the Service Area who is vested with the authority and responsibility for operating the Service Area's water system and its water rights and for taking those actions authorized by this Regulation.

1.36 Xeriscape Landscaping. Landscaping method that utilizes drought-tolerant plants, excluding grass or turf; mulch and drip irrigation; and other water-conservation techniques.

2. Section 4.4.1.1(1) is amended to read as follows (changes in strikethrough and underline):

*(1) Domestic Water Diversions: Water diversions for a ~~fulltime, permanent~~ primary residence with 0.75 acre-foot allocations will be evaluated at ~~0.540-0.55~~ acre-feet per residence, including all indoor culinary uses and up to 0.15 acres of outdoor irrigation. Water diversions for a primary residence with 1.0 acre-foot allocations will be evaluated at 0.79 acre-feet per residence, including all indoor culinary uses and up to 0.23 acres of outdoor irrigation.*

SUMMIT COUNTY SERVICE AREA #3

RESOLUTION NO. 2023-10

**REVISING REGULATION #2023-03 REGARDING NON-RESIDENTIAL WATER USE**

WHEREAS, Summit County Service Area #3 (the “**Service Area**”) was established to provide culinary water service to certain properties within the Silver Creek Estates Subdivision, among other responsibilities; and

WHEREAS, Silver Creek Estates was originally envisioned as a residential community consisting primarily of single-family homes; and

WHEREAS, the lots that are entitled to receive water service from the Service Area are zoned as “rural residential” under Summit County’s land use regulations, meaning that the lots are zoned for single-family homes with limited potential for multi-family and commercial development; and

WHEREAS, because water rights within the District’s service area are limited and difficult to obtain, the District has divided its water rights equally among those “wet” lots that are entitled to connect to its water system to ensure that it will have sufficient water to service each lot, effectively giving such lots an “allotment” of water; and

WHEREAS, the Service Area has long strived through its regulations to ensure that it has sufficient water rights to allow “wet” lot owners to develop their property in accordance with the rural residential zone; and

WHEREAS, the Service Area’s water service regulation currently require non-residential developments (i.e., developments that do not involve the construction of a single-family home) to dedicate water for their projects because: (1) the Service Area’s water rights are fully allocated to residential lots, meaning that the commercial lots located within the Service Area are dry lots that lack allocations and have not been assessed standby or other fees associated with maintaining the Service Area’s water system and water rights; or (2) are part of a single-family home development and the water use associated with the single-family home and related residential uses will fully use the allocation, leaving little or no water for the non-residential aspects of the development; and

WHEREAS, the Service Area has become aware of certain circumstances in which owners of wet lots who have paid the applicable standby and other fees have been unable to secure land use approval from Summit County to construct single family homes due to setback and other requirements, and desire to build other uses that are allowed in the rural residential zone and would not exceed their allotment; and

WHEREAS, the Board of Trustees for the Service Area desires to amend its water service regulation (#2023-03) to create an exception to its non-residential water dedication requirements

for wet lots in good standing that cannot construct or do not anticipate constructing a single-family home and desire to construct a non-residential use that does not exceed the allocation for the lot.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees that:

- 1. Section 5.1 of Regulation #2023-03 is amended to read:

*Non-Residential Water Connections to Water System. The Service Area was not established to provide water service to non-residential ~~properties~~ developments and lacks sufficient water rights to service new non-residential developments or expansions of existing non-residential developments. Permitting new non-residential connections or expansions of existing non-residential water uses to the water system therefore requires applicants to dedicate sufficient water rights to supply the non-residential use to the Service Area at no cost to the Service Area pursuant to Section 16, compliance with specific requirements defined on a case-by-case basis by the Service Area, and continuing compliance with conditions for water service established by the Service Area. Requests for non-residential water service will be permitted only after an applicant complies with the requirements of Section 4 for new connections, pays any additional fees and security deposits established by the Board for non-residential water use applications, and demonstrates compliance with the following requirements:*

- 2. Section 5.2 of Regulation #2023-03 is enacted to read:

*Exception. The Board may, in its discretion, authorize water service for non-residential developments without the dedication of additional water rights if:*

- (1) The applicable lot is not a dry lot;*
- (2) The lot has an allocation in good standing with the Service Area;*
- (3) The owner has paid all applicable fees owing to the Service Area;*
- (4) The non-residential development does not include a residential use and future residential uses are not anticipated and/or are not allowed under Summit County's land use regulations;*
- (5) The estimated water use associated with the non-residential*

*development does not exceed the allocation for the lot; and*

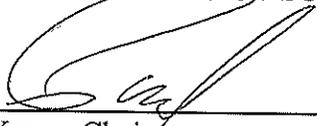
- (6) As a condition of the Service Area providing water service for the non-residential development, the owner agrees to execute an agreement with the Service Area in a form that is acceptable to the Board, that will be recorded with the Summit County Recorder's Office for the lot, and requires: (i) compliance with all applicable laws, regulations, Service Area regulations, and other applicable local ordinances and regulations; (ii) construction of the non-residential project in accordance with plans approved by Summit County and the Service Area; (iii) the Service Area's written consent for modifications to plans the Service Area previously approved plans if the modifications will increase the water use associated with the development; (iv) the Service Area's written consent for the installation of additional buildings, structures, or irrigated landscaping that were not previously included in plans the Service Area previously approved; and (v) dedication of additional water rights in accordance with the District's applicable regulations if the owner seeks to install additional buildings, structures, irrigated landscaping, or commence other uses of the Property that will cause the water use associated with the Property, as calculated by the District, to exceed the allocation for the lot.*

3. This regulation will go into effect immediately.

[execution on following page]

ADOPTED AND PASSED this 7<sup>th</sup> day of November, 2023.

**BOARD OF TRUSTEES OF SUMMIT COUNTY SERVICE AREA NO. 3.**

By:   
Paul Kraus, Chair

ATTEST:

  
Larry Elbert, Summit County Service Area #3 Clerk

VOTING

Trustee Suzanne Carpenter voting	YEA
Trustee Lori Daniells voting	YEA
Trustee Larry Elbert voting	YEA
Trustee Paul Kraus voting	YEA
Trustee Scott Sharp voting	ABSENT
VACANT	N/A
VACANT	N/A