

12.2400.2413 WATER RIGHTS

Enoch City Water Connection Policy

Enoch City has limited water rights. Enoch City provides culinary and irrigation water for residential, commercial, and industrial uses consistent with City ordinance. There are limited water rights in the Cedar City area, and these resources are shared by Enoch City, Cedar City, the Central Iron County Water Conservancy District, agriculture, private owners, and private water corporations.

Enoch City is experiencing sustained residential, commercial, and industrial growth, and growth necessitates acquisition of additional water rights.

The State of Utah Water Engineer has determined that the water rights in the Cedar Valley Aquifer have been fully appropriated and has closed the basin to future appropriation of water rights.

The State Engineer has studied the aquifer and determined the estimated safe yield for the groundwater basin is 21,000 acre-feet per year. The estimated current average depletion from the groundwater basin is 28,000 acre-feet per year. The average actual depletion must be reduced by 7,000 acre-feet per year to balance recharge and depletion amounts in this groundwater basin. To accomplish this goal, the State Engineer has instituted a Groundwater Management Plan (GMP).

A. Purpose

Any person who desires or is required to secure a new connection to the municipal water system shall file a written and signed connection application provided by Enoch City staff with the Water Department.

All property that has not previously deeded water rights shall be required to deed water rights either at the time the property subdivides or when the property applies for a building permit. For residential property, water rights shall be deeded at the time of subdivision. If a residential property has previously been subdivided and no water rights have been provided, then water rights shall be deeded upon the application for a building permit. For commercial or industrial property, water rights shall be deeded upon the application for a building permit.

Nothing in this ordinance shall require deeding of water rights when a building permit is pulled for repair, remodel, or expansion of a building that has already been granted a building permit, whether before or after the effective date of this ordinance.

This ordinance is intended to acquire water rights one time only. Nothing herein shall be construed to require a property that has previously complied with this ordinance to deed additional water rights.

B. Amount of Water Required

For property located in single-family housing zone designations, and for single-family dwellings located in any other zones, each unit shall be assessed:

- 0.88 acre-feet of Agricultural water, or

- 0.50 acre-feet of Municipal & Industrial (M&I) water.

For commercial and industrial properties, the water right requirement will be calculated based on the size of the water meter required to serve the proposed use on the property. If the water meter size is augmented solely for fire suppression purposes, then the water right will be calculated based on the size of the meter that would be required absent fire suppression needs.

Properties with Both Culinary & Secondary Water. Applicants seeking to approve properties, with a single-family unit, and with both Culinary and Secondary water meters are subject to the following:

- The Water Acquisition Fee & Water Right for a new water connection on such properties shall be equal to the value of a full acre foot, on such a property shall be as follows: .3 AF of Enoch City Water Right, corresponding to the culinary water, which are not transferable and shall remain with the property, and .7 AF of Enoch City Water Right, corresponding to the Secondary Water, which are not transferable and shall remain with the property.
- The Conservation Tier Schedule for such properties shall be permanently assigned as follows: The .3 AF of Culinary water shall be set at the Conservation Tier of "CUL," and subject to the corresponding "CUL" water rates. The Secondary water shall be set at the Conservation Tier of "SEC," and shall be subject to the corresponding SEC water rates. Properties in Enoch City with both a Culinary water meter and a Secondary water meter, will receive an Enoch City water bill separately designating the rates for each water meter.

C. Water Right Deed

Applicants may satisfy the City's water dedication requirement by deeding one of the following:

- Priority Water Right:
A water right with a **priority date on or before July 25, 1934.**
- Priority Water Right:
A water right with a **priority date after July 25, 1934, only if:**
It has **at least 10 years remaining before curtailment** under the State Engineer's Groundwater Management Plan for the Cedar City Valley Aquifer.
Water Acquisition Fee (Cash Payment Requirement for Non-Priority Rights)
 - For deeds involving Non-Priority Water Rights, a Water Acquisition Fee must be paid based on the appraised value of a one-acre-foot Priority Water Right (north of Highway 56, prefix 73, priority before July 25, 1934) **or with a water right prefix of 71**
 - The fee is calculated at 1% of the Priority Water Right's appraised value for each full year remaining before curtailment under the State Engineer's Plan. (See "Water Rights Acquisition Fee Chart 2022" below)
 Appraised values are updated by the City Council as needed, typically every six months.

Water Rights Acquisition Fee Chart 2022		
Water Priority Date	Suspension Date	% Value
Jan 10, 1966 - Dec 31, 1957	January 1, 2035	13%
Dec 30, 1957 - Dec 31, 1954	January 1, 2050	28%
Dec 30, 1954 - Dec 31, 1951	January 1, 2060	38%
Dec 30, 1951 - Dec 31, 1935	January 1, 2070	48%
Dec 30, 1935 - Jul 25, 1934	January 1, 2080	58%
July 25, 1934 - & Earlier	Not Suspended	100%

Note: Water rights that are expected to be curtailed within 10 years of the deed date **will not be accepted**.

Applicants must also provide:

- Proof of recent beneficial use
- Proof of ownership through a complete chain of title
- Payment of all costs associated with deeding and deeding the water right
- Water rights must originate from the **Cedar City Valley Drainage north of Highway 56** (water right prefix **73**) or with a water right prefix of 71

D. Process to Deed Water Rights

1. The Applicant shall submit a title report showing:
 - o Type of water right
 - o Ownership of the right
 - o Any liens or encumbrances
2. The Applicant shall provide a title insurance policy in an amount adequate to cover the appraised value of the water rights.
3. A deed and Deed Addendum conveying ownership of the water rights to Enoch City shall be completed and recorded by the City before approval of a building permit application.
4. If the water right is supplemental, recharge/recovery, or otherwise not a primary underground well source, the Applicant must obtain an approved change application from the State Engineer prior to subdivision or building permit approval, defining:
 - o Sole supply
 - o Established diversion and depletion limitations

E. Exemptions. The following are exempt from the Water Acquisition Fee.

1. Open space exemptions. If at the time of final plat approval, or pulling of a building permit, land is deeded to Enoch City as a dedicated street or for undeveloped open space, parks and recreation, or placed in a conservation

easement that complies with the provisions of Title 57, Chapter 18, Sections 1 through 7, Utah Code Annotated, 1953 as amended, then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights or payment of fees. Additionally, if land in a subdivision is to be held as common area and is undeveloped and/or unirrigated, then that land is not subject to the requirements of this ordinance that mandate the payment of Water Acquisition Fees.

2. Public lands exemption. If at the time of annexation, the annexed property is owned by the Bureau of Land Management or the U.S. Forest Service then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.
3. City Exemption. Enoch City is not required to deed water or pay a fee if the City develops land. A purchaser of property from the City will have to pay the Water Acquisition Fee to the City consistent with this ordinance.

F. Water Acquisition Fee Schedule and Tier System. An Applicant seeking approval of a single-family lot development must first designate a Conservation Tier and pay the corresponding Water Acquisition Fee with 88/1000 (.88) AF of Agriculture water right or 50/100 (.50) AF of Municipal & Industrial water right for each single-family lot. The selected Conservation Tier will establish the lot owner's expected water use, and the corresponding Water Acquisition Fee, and the resulting water rates.

1. The Water Acquisition Fee Schedule indicates the Water Acquisition Fee for each Conservation Tier that could be selected, as a percentage of a full, one-acre-foot, Priority Water Right, and the corresponding water use.
2. The Conservation Tier Schedule indicates the lot owner's expected water use and resulting water rate. Enoch City will, from time to time, change such water rates and penalties for each Tier.
3. Properties with Both Culinary & Secondary Water. Applicants seeking to approve properties with a single-family unit and with both Culinary and Secondary water meters are subject to the following. The Water Acquisition Fee for a new water connection on such properties shall be equal to the value of a full, one acre, Priority Water Right. However, the Enoch City Water Rights assigned to such a property shall be as follows: 30% of the AF of Enoch City Water Right, corresponding to the culinary water, which are not transferable and shall remain with the property, and 70% of the AF of Enoch City Water Right, corresponding to the Secondary Water, which are not transferable and shall remain with the property. The Conservation Tier Schedule for such properties shall be permanently assigned as follows: The 30% AF of Culinary water shall be set at the Conservation Tier of "CUL," and subject to the corresponding "CUL" water rates. The Secondary water shall be set at the Conservation Tier of "SEC," and shall be subject to the corresponding SEC water rates. Properties in Enoch City with both a Culinary water meter and a Secondary water meter, will receive an Enoch City water bill separately designating the rates for each water meter.

G. Multi-Residential Developments. Applicants seeking approval of a Multi-Residential Development must provide an engineered Annual Water Estimate, illustrating the total annual, acre-feet of water estimated to be used by the Development ("Annual Water Estimate"), to be reviewed and approved by Enoch City. The initial Water Acquisition Fee and Water Right and

the subsequent water rate will be calculated based on this determination. For purposes of this Annual Water Estimate, the number of Multi-Residential Units should be multiplied by .3 acre-feet of water, and each sq/ft of proposed grass should be divided by 10,057, to derive the Development's Annual Water Estimate, in terms of Acre Feet (i.e.: a twenty-unit subdivision (20 units x .3 = 6AF) with 10,000 square feet of grass (10,000 sq/ft grass / 10,057 = .994AF) would have a 6.994AF Annual Water Estimate). The Water Acquisition Fee and Water Right will be determined by multiplying the Annual Water Estimate by the priority Water Right Value (i.e.: a Development with a 6.994AF Annual Water Estimate will pay 6.995 multiplied by the Conservation MFD Tier, which is 100% of the appraisal Priority Water Right). The Development would subsequently pay for water at a rate of 6.994AF multiplied by the Tier 1 Rate (i.e. a MRD that is estimated to use 6.994AF of water annually will pay 6.994 times the Tier 1 Rate).

1. The Water Rights assigned to a Multi-Family Development will be assigned under the "MFD" Conservation Tier. These Water Rights are not transferable and must remain assigned to the Development. If any Multi-Family Development is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be required to pay an additional Water Acquisition Fee to address the extra water used.

H. Commercial, Industrial, and Manufacturing Developments. Applicants seeking approval for commercial, industrial, or manufacturing developments must provide an engineered Annual Water Estimate, illustrating the total, annual, acre feet of water estimated to be used for each lot, to be reviewed and approved by Enoch City. The initial Water Acquisition Fee with Water Right and the subsequent water rate will be calculated based on this determination. For purposes of this Annual Water Estimate, the engineer must determine the various uses and estimate the amount of water to be used for the property, including the proposed square footage of grass, which should be divided by 10,057, to derive the total annual, number of acre feet of water used for grass areas. The Water Acquisition Fee and Water Right will be determined by multiplying the Annual Water Estimate by the appraised Priority Water Right. The subsequent water rate will likewise be determined by multiplying the Annual Water Estimate by the Tier 1 Rate. The Water Rights assigned to a Commercial, Industrial, or Manufacturing lot will be assigned under the "Com" Conservation Tier. These Water Units are not transferable and must remain assigned to the property. If any Commercial, Industrial, or Manufacturing property is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be required to pay an additional Water Acquisition Fee with Water Right(s) to address the extra water used.

I. Institutional Properties. Applicants seeking approval of Institutional Developments, including schools, religious buildings, and other properties of nonprofit organizations, must present an engineered Annual Water Estimate, illustrating the total, annual acre feet of water estimated to be used for such property, to be reviewed and approved by Enoch City. The initial Water Acquisition Fee & Water Right and the subsequent water rate will be based upon this determination. For purposes of this Annual Water Estimate, the engineer must determine the various uses and estimate the amount of water to be used for the property, including the proposed square footage of grass, which should be divided by 10,057, to derive the total annual, number of acre feet of water used for grass areas. The Water Acquisition Fee & Water Right will be determined by multiplying the Annual Water Estimate by the appraised Priority Water Right. The subsequent water rate will likewise be determined by multiplying the Annual Water Estimate by the Tier 1 Rate. The Water Rights assigned to an Institutional property will be assigned under "INS" Conservation Tier. These Water Rights are not transferable and must remain assigned to the property. If any Institutional property is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be

required to pay an additional Water Acquisition Fee with Water Right(s) to address the extra water used.

14.100.113 APPLICATION FOR WATER CONNECTION

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Any person—other than a subdivider or developer seeking multiple connections—who desires or is required to secure a new connection to the municipal water system shall file a written and signed connection application provided by Enoch City staff with the Water Department.

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- Proof of ownership through a complete chain of title
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D. Process to Deed Water Rights

1. The Applicant shall submit a title report showing:
 - o Type of water right
 - o Ownership of the right
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2. The Applicant shall provide a title insurance policy in an amount adequate to cover the appraised value of the water rights.
3. A deed and Deed Addendum conveying ownership of the water rights to Enoch City shall be completed and recorded by the City before approval of a building permit application.
4. If the water right is supplemental, recharge/recovery, or otherwise not a primary underground well source, the Applicant must obtain an approved change application from the State Engineer prior to subdivision or building permit approval, defining:
 - o Sole supply
 - o Established diversion and depletion limitations

E. Water Right Credit and Assignment Program

Water Right Credit and Assignment Program. Enoch City is authorized under the Utah State Constitution to accept and hold water rights in perpetuity for municipal water supply purposes

and for the benefit of the public. To facilitate development within the City's water service area, the City may enter into Water Right(s) Credit & Assignment Agreements with water right owners who convey water rights to the City. This program provides a mechanism for Owners to contribute water rights to the City's municipal supply in exchange for assignable development credits.

1. **Conveyance of Water Right(s).** The Owner shall convey acceptable Water Right(s) to the City by duly executed deed and deed addendum in recordable form, as set forth in Enoch City Ordinances and by the Utah Division of Water Rights. Upon conveyance, the City shall hold such Water Right(s) in perpetuity in accordance with the Utah State Constitution, for municipal water supply purposes.
2. **Grant of Assignment Credit(s).** In consideration for the conveyance of Water Right(s) to the City under an Agreement, the City shall grant to the Owner the right to assign Water Right(s) credit for future development within the City's water service area.
3. **Determination of Assignment Credit.** The number of Assignment Credit(s) granted to an Owner shall be determined at the time the Water Right(s) are deeded to the City, in accordance with the City's then-current water right requirement per Equivalent Residential Connection (ERC) as established by ordinance or policy.
 - o One Assignment Credit shall generally be granted for each amount of water equal to the then-current ERC requirement.
 - o Partial credits may be issued on a pro-rata basis.
 - o Assignment Credits may be applied to either residential or commercial connections; however, the water right requirement for commercial connections may differ based on the City's current standards and is not necessarily equal to the residential conversion rate.
4. **Assignment Process.** The assignment of Assignment Credit(s) by the Owner (or the Owner's successor or assign) shall be affected by a notarized letter. This letter must clearly state:
 - o The exact amount of water right credit being assigned.
 - o The name of the recipient of the credit.
 - o The specific property or project receiving the credit.
 - o If applicable, any lien holder with an interest in the Assignment Right(s) shall provide their written consent in the same notarized letter.
5. **City Review and Approval.** The City shall approve assignments upon verification of the submitted documentation and compliance with all applicable City ordinances and policies.
6. **Relationship to Other Water Acquisition Provisions.** It is hereby clarified that Water Rights required and assigned to Multi-Family Developments, Commercial, Industrial, Manufacturing, or Institutional properties as part of their initial Water Acquisition Fee obligation, are not transferable and must remain assigned to that specific development or property. The Water Right Credit and Assignment Program, as described in this subsection (L), applies to Water Rights voluntarily contributed and accepted specifically for the purpose of being banked and assigned as credits by the Owner for future, unassigned development purposes.