

# Town of Leeds

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## Agenda

### Town of Leeds Town Council-Work Session

Wednesday, April 26, 2023

**PUBLIC NOTICE** is hereby given that the Town of Leeds Town Council and Planning Commission will hold a **PUBLIC MEETING** on Wednesday, April 26, 2023, at 6:00 pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

#### Work Session 6:00pm

1. Discuss and finalize proposed new water Ordinance 2023-03, Water Authority with the Town Council, Planning Commission and LDWA Board.

#### Regular Meeting 7:00pm


1. Call to Order/Roll Call
2. Invocation
3. Pledge of Allegiance
4. Declaration of Abstentions or Conflicts
5. Consent Agenda:
  - a. Tonight's Agenda
  - b. Meeting Minutes of April 12, 2023
6. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
7. Announcements:
  - a. Public Notice for Town of Leeds 2024 Municipal Election for Two (2) Town Council Member- each a 4-year term
9. Public Hearings: None
10. Action Items: None
11. Discussion Items:
  - a. Town of Leeds Flood Risk Map program review with Utah Division of Emergency Management representative Jamie Huff
  - a. Second quarter budget review
12. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
13. Staff Reports:
14. Closed Meeting- A Closed Meeting may be held for any item identified under Utah Code section 52-4-205.
15. Adjournment

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at least 24 hours prior to the meeting.

The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting:

The undersigned Clerk/Recorder does hereby certify that the above notice was posted April 24 2023 at these public places being at **Leeds Town Hall, Leeds Post Office, the Utah Public Meeting Notice website <http://pmn.utah.gov>, and the Town of Leeds website [www.leadstown.org](http://www.leadstown.org).**

  
Aseneth Steed, Clerk/Recorder

## **BACKGROUND AS TO WHY A NEW WATER ORDINANCE IS NEEDED**

When Mayor Law signed The Washington County Water Conservancy District Regional Water Supply Agreement dated April 23, 2006, apparently the Town of Leeds contemplated that it or the Conservancy would take over LDWA's assets and that LDWA would be dissolved. The Town would then work directly with WCWCD to provide water service. LDWA's Board was in favor of this because the water system was badly in need of repairs and upgrading to meet State standards.

A LDWA shareholders meeting was held to vote on the proposal under the assumption that a majority of shareholders at the meeting could approve it. However, it was pointed out that the LDWA Articles of Incorporation required a majority vote of all the shareholders, not just those in attendance, for approval of dissolution or disposal of all of its assets. LDWA could not muster the needed votes for approval. Consequently, nothing happened for more than a year. Then the town passed Ordinance 08-01, which complained of many of LDWA's shortcomings, including alleging that LDWA chose not to join in the Regional Water Supply Agreement. (The Town had, in fact, signed the Agreement, and LDWA was not allowed to sign the agreement because that agreement was between the County and the Towns, not private companies). Further, the ordinance designated the Town as the sole and exclusive authority to regulate and provide culinary water service to all new development, revoked all authority delegated to LDWA, disavowed that LDWA had quasi-municipal status as a public utility, and reserved the right to the Town to require LDWA to apply for a franchise and pay a franchise fee to continue to serve the Town.

The Town also said it had conceptually secured culinary water from alternate sources, that it intended to provide culinary water to all areas of the Town, and accused LDWA of general usurpation of the Town's inherent power to generally regulate the growth, development, health, safety and general welfare of the Town and its residents.

The Town was also considering condemning LDWA's assets and taking over the water service unless the WCWCD took over the water service. The town then did nothing to follow up on the new ordinance. In spite of the Regional Agreement, LDWA shareholders decided they wanted to retain control of their own water. Consequently, LDWA's new management obtained a \$2.5 million Loan from the State and began the upgrade that allowed LDWA to continue its operation. Since that time, there have been unanswered questions as to the precise role of the Town and WCWCD and LDWA in managing the Town's water service.

Legally, the ordinance stripped LDWA of all authority and status without the Town proceeding to manage and provide water service. This gap must be remedied. A new ordinance is needed to mend the fences and ensure that the Town and LDWA are working together and managing growth consistent with the Town's water resources. Although LDWA is a private company, it was, and should continue to be, a quasi-municipal water provider under the jurisdiction and oversight of the Town, which is the water authority. The distinction is that the Town is the water authority and LDWA should be the water provider.

ORDINANCE 08- 01

**LEEDS CULINARY WATER AUTHORITY ORDINANCE**

WHEREAS, The Town of Leeds ("Town") is a municipal corporation, body politic and political subdivision of the State of Utah.

WHEREAS, The Town is empowered pursuant to Utah Code Ann. §§ 10-7-4, 10-8-14 thru 10-8-18 to regulate and control the provision of culinary within the municipal boundaries of the Town.

WHEREAS, for decades previous to the adoption of this Ordinance, the provision of culinary water service to the residents of the Town has been delegated to a single water company known as the Leeds District Waterusers Association ("LDWA").

WHEREAS, the LDWA is a private, non-profit corporation, charged in its By-Laws with the obligation of providing culinary water service to all residents of the Town.

WHEREAS, over the years the LDWA has developed, constructed and otherwise acquired a culinary water source, storage and distribution system throughout the Town.

WHEREAS, in the early 1980's the LDWA placed all of the water rights it owned "in trust" for the Town for the purposes of obtaining quasi municipal status and to avoid the obligation and responsibility of being deemed a "public utility" pursuant to Utah Code Ann. § 54-2-1(15) and thus being regulated by the Public Service Commission of Utah.

WHEREAS, the LDWA has successfully provided culinary water service to the residents of the Town, however over the years various issues and events have arisen which have precipitated the need to have the Town intervene and assert its statutory power to regulate the provision of culinary water service within the Town.

WHEREAS, said issues and events have included, but are not limited to:

a. Revisions to the LDWA's By-Laws which require new development to physically provide "wet water" or "water in a cup" prior to the LDWA's governing board approval to any proposed development;

b. The LDWA's governing bodies refusal to approve certain proposed development on the grounds that the applicant will not agree to its "wet water" policy or other exactions or conditions that the Town deems to be unnecessary or unreasonable.

c. Recent arbitrary increases to user rates for the use of culinary water in excess of a shareholders normal water allocation;

choosing not  
d. ~~Refusal by the~~ LDWA's governing board to join in the Regional Water Supply Agreement with the Washington County Water Conservancy District and other local municipalities or make other genuine attempts to secure a long term sources of water supply for Town and its residents,

e. The LDWA's refusal or inability to take any steps outlined in the previous sub-paragraph in light of a recent capital facilities plan which it commission that indicates it does not have enough water rights to service all current water connections at its current water allocation prescribed by its By-Laws.

f. The LDWA's failure ~~or refusal~~ to report to the Town or the Public Service Commission of Utah regarding its activities, financial affairs, condition of its system and water sources and the reasonableness of its impact fees, and user fees.

g. The LDWA's failure ~~or refusal~~ to comply with the Utah Impact Fee Act (Utah Code Ann. § 11-36-1 *et al*) in setting and administering its connection/impact fee.

h. The LDWA's general usurpation of the Town's inherent power to generally regulate the growth, development, health, safety and general welfare of the Town and its residents.

WHEREAS, based upon the above mentioned, and other reasons, the Town has initiated efforts and conceptually secured the availability of culinary water from alternate sources and intends to provide culinary water service to all areas of the Town unless the Town, in its sole discretion, determines that the provision of culinary water to a certain area is practically or financially impossible or unreasonable and would cause an undue hardship upon a property owner or owners.

WHEREAS, the Town, after careful consideration and study, have determined that revoking any rights and power it has delegated to the LDWA and asserting itself as the sole and exclusive authority for the regulation and provisioning of culinary water within the Town is in the best interests of the health, safety and general welfare of the Town and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LEEDS AS FOLLOWS:

**ORDINANCE 08-\_\_\_\_\_**

**LEEDS CULINARY WATER AUTHORITY ORDINANCE**

AN ORDINANCE DESIGNATING THE TOWN OF LEEDS AS THE SOLE AUTHORITY FOR THE PURPOSE OF REGULATING AND PROVIDING CULINARY WATER SERVICE TO ALL NEW CONSTRUCTION AND DEVELOPMENT WITHIN THE TOWN'S MUNICIPAL BOUNDARIES; ALLOWING FOR THE DELGATION OF THIS AUTHORITY TO OTHER CULINARY WATER PROVIDERS IN CERTAIN CIRCUMSTANCES AS

DETERMINED BY THE TOWN COUNCIL; PRESCRIBING FOR PENALTIES TO ANY PERSON, ENTITY, GROUP OR ASSOCIATION PROVIDING OR ACCEPTING CULINARY WATER SERVICE SOURCES OTHER THAN THE TOWN INVOLVATION OF THIS ORDINANCE.

1. **DEFINITIONS:** The following definitions shall apply to this Ordinance. In the event a term is not defined herein, it shall first be given any meaning set forth in the Town's general ordinance or state law. In the event any term is not defined in any of the preceding sources it shall be given its normal, everyday meaning.

"Culinary Water Service" shall mean the provisioning of culinary water to a residence, structure or property within the municipal boundaries of the Town. Culinary Water Service shall include the acquisition, storage and distribution of the culinary water and the repair, connection and maintenance of any system of wells, tanks lines, pumps, valves, meters or other equipment and materials used in connection with the provisioning of culinary water.

"LDWA" shall mean the Leeds District Waterusers Association, a private non-profit corporation providing culinary water service within the municipal boundaries of the Town.

"New Development" shall mean any subdivision of land or construction of any residential, commercial or industrial structure or use which would require the separate and distinct provisioning of culinary water service other than that which is already being provided within the Town's municipal boundaries by the LDWA as of the effective date of this Ordinance.

"Public Utility" shall mean that definition given it by Utah Code Ann. § 54-2-1(15).

"Town" shall mean the Town of Leeds, a municipal corporation and political subdivision of the State of Utah.

"WCWCD" shall mean the Washington County Water Conservancy District, a special service district and political subdivision of Washington County and State of Utah.

2. **DESIGNATION OF CULINARY WATER AUTHORITY.** The Town hereby designates itself to be the sole and exclusive authority to regulate and provide Culinary Water Service to all New Development within the Town's municipal boundaries. Accordingly all New Development must obtain and receive culinary water service from the Town unless the Town, in its sole discretion, determines that the provision of culinary water to a certain area or individual property is practically or financially impossible or unreasonable and would cause an undue hardship upon a property owner, owners or end user. In the event the Town makes such a finding and determination it may authorize a property owner or end user to obtain Culinary Water Service from the LDWA or other culinary water service provider.

3. **REVOCATION OF ANY CULINARY WATER AUTHORITY DELEGATED TO THE LDWA.** The Town revokes and disavows any power or authority it

*or approved  
and paid  
for prior  
to 01  
Jan, 2008*

may have delegated to the LDWA in the past, whether express or implied. Accordingly the Town officially does not recognize any "quasi-municipal" status LDWA may claim.

4. **RESERVATION OF RIGHT TO REQUIRE A FRANCHISE.** The Town reserves the right to seek an administrative ruling from the Public Service Commission of Utah or a declaratory judgment from a court of competent jurisdiction regarding whether or not the LDWA is a Public Utility. In the event it is determined that the LDWA is not a Public Utility, the Town reserves the right to require ~~the~~ LDWA to apply for and obtain a Franchise for the purpose and ability to maintain ~~its private~~ water lines and facilities within the Town's public rights-of-way or on Town property and to pay any associated franchise fee.

5. **PENALTY:** In the event any person, entity or group is found providing Culinary Water Service to any New Development within the Town's municipal boundaries that person, entity or group shall be subject to a fine of \$1,000.00 per day for each day said provisioning occurs. In addition, any person found to have provided Culinary Water Service to New Development shall be guilty of a class B misdemeanor and, upon conviction, subject to all penalties and fines associated therewith. Each day or incident of violation shall constitute a separate offense hereunder.

6. **SUPERCEDE PREVIOUS/CONFLICTING ORDINANCE:** This Ordinance supersedes or repeals the provision(s) of any ordinance(s) or resolution(s) that is (are) inconsistent with the provisions of this Ordinance.

7. **SEVERABILITY CLAUSE:** If any part of this Ordinance is held to be illegal, unconstitutional for any reason by a court of competent jurisdiction or is in conflict with Utah State Law the remainder shall not be affected thereby.

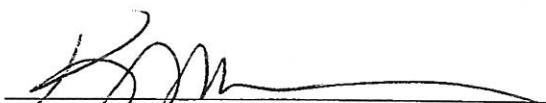
8. **EFFECTIVE DATE:** This Ordinance shall become effective immediately upon passage and posting.

PASSED AND ADOPTED by the Leeds Town Council on this 30<sup>th</sup> day of January 2008

**TOWN OF LEEDS**

  
\_\_\_\_\_  
Trudy Law, Mayor

Attest:

  
\_\_\_\_\_  
Karen Markovich, Town Clerk/Recorder

# Draft Water Ordinance

## ORDINANCE 2023-03

### LEEDS WATER AUTHORITY ORDINANCE

#### **AN ORDINANCE DESIGNATING THE TOWN OF LEEDS AS THE WATER AUTHORITY AND TO SET FORTH AUTHORITY TO REGULATE THE PROVISIONING OF WATER TO THE TOWN**

WHEREAS, the Town of Leeds (“Town”) is a municipal corporation, body politic and political subdivision of the State of Utah; and

WHEREAS, the Town is empowered pursuant to UCA 10-7-4, and UCA 10-8-14 through 10-8-18, to regulate and control the provision of water service within its municipal boundaries; and

WHEREAS, the Town has the responsibility to protect and conserve water resources to enable the Town to provide water services necessary for the continued growth and development of the Town; and

WHEREAS, the Town has the responsibility to ensure a reliable, affordable, sustainable, and clean culinary water supply to provide for the growth, development, health, safety and general welfare of the Town and its residents; and

WHEREAS, the Town has been able to meet its culinary water needs by obtaining water from the Leeds Domestic Water Users Association (LDWA), a private, nonprofit, mutual water company incorporated in the State of Utah; and

WHEREAS, to assure a reliable source of water for backup or future use, the Town, on January 30, 2008, entered into the Washington County Water Conservancy District Regional Water Supply Agreement dated April 23, 2006, which agreement allows the Town to obtain water from the Washington County Water Conservancy District (WCWCD); and

WHEREAS, the LDWA, as a quasi-public water company, has developed, constructed and otherwise acquired and maintained a reliable culinary water source, storage and distribution system throughout the Town and has for many decades greatly benefitted the Town by providing culinary water at an economical cost; and

WHEREAS, the Town acknowledges the benefits of continuing to authorize LDWA to provide culinary water service within its municipal boundaries.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LEEDS AS FOLLOWS:**

**1. SUPERSEDING/CONFLICTING ORDINANCES.**

This ordinance repeals Leeds Culinary Water Authority Ordinance 08-01 and supersedes or repeals the provisions of any ordinance or resolution that is inconsistent with its provisions.

**2. DEFINITIONS:**

The following definitions shall apply to this ordinance. In the event a term is not defined herein, it shall first be given any meaning set forth in the town's general ordinances or state law. In the event any term is not defined in any of the preceding sources it shall be given its normal, everyday meaning.

**"New Development"** shall mean any subdivision of land or construction or modification of any residential, commercial or industrial structure or other use which would require the provisioning of culinary water service.

**"Town"** shall mean the Town of Leeds, a municipal corporation and political subdivision of the state of Utah

**"Water service"** shall mean the provisioning of culinary water to a residence, business, structure or property within the municipal boundaries of the town. Water service shall include the acquisition, storage, and distribution of culinary water and the repair, connection and maintenance of any wells, tanks, lines, pumps, valves, meters or other equipment and materials used in connection with the provisioning of culinary water.

**"Culinary Water Provider"** shall mean the entity designated by the Town to provide culinary water to the Town.

**"LDWA"** shall mean The Leeds Domestic Water Users Association.

**"WCWCD"** shall mean the Washington County Water Conservancy District.

**3. WATER AUTHORITY FOR TOWN OF LEEDS.**

Pursuant to its authority under UCA 10-7-4, and UCA10-8-14 through 10-8-18, the Town of Leeds, as Water Authority, shall regulate the provision of water service within the municipal boundaries of the Town.

**4. AUTHORITY TO DESIGNATE CULINARY WATER PROVIDER.**

As the Water Authority, the Town shall designate a Culinary Water Provider for culinary water service within the town's municipal boundaries, which designee shall be the exclusive provider to the Town. The Town may terminate the designated Culinary Water Provider for cause.



**5. DESIGNATION OF CULINARY WATER PROVIDER.**

The Town hereby designates Leeds Domestic Water Users Association (LDWA) as the Culinary Water Provider.

**6. RESPONSIBILITIES OF CULINARY WATER PROVIDER.**

The Culinary Water Provider shall provide a reliable, affordable, and clean culinary water supply to sustain the present needs of the Town and all future approved New Development within the Town's municipal boundaries.

**7. CULINARY WATER SERVICE FOR NEW DEVELOPMENT.**

All New Development must obtain water service from the Culinary Water Provider and the Town. The Culinary Water Provider shall ensure that there are adequate water sources and infrastructure to provide the water service. If these conditions are met, the Culinary Water Provider shall grant approval.

**8. TOWN APPROVAL REQUIRED FOR WATER SERVICE TO ALL NEW DEVELOPMENT.**

Town approval of water service is required for all New Development before development can proceed. The Town shall not approve any water service that has not first been approved by the Culinary Water Provider. Moreover, the Town shall not approve water service for New Development if the Town, in its sole judgment, determines that there are insufficient water sources to support such development. Where water sources are deemed insufficient, the Town is not required to seek water sources outside its municipal boundaries.

**9. TOWN OVERSIGHT OF CULINARY WATER PROVIDER.**

The Town, in the exercise of its responsibilities to ensure adequate water service, shall implement policies and procedures to ensure that the Culinary Water Provider is capable of meeting the present and future water service needs of the Town. Such oversight may include periodic financial and operational reports, inspections, and other reasonable means as deemed appropriate by the Town.

**10. SAFEGUARDING WATER RIGHTS.**

The Culinary Water Provider shall facilitate New Development within the Town while ensuring that it does not diminish, curtail, impair, or otherwise vitiate the existing water rights of Town residents and property owners. Before approving water service for any building permit, subdivision plat, or other development, the Culinary Water Provider shall ensure that there are sufficient water sources, capacity, and infrastructure to provide the water.

**11. AUTHORITY TO OBTAIN ADDITIONAL WATER.**

Where circumstances arise that make it impractical or unduly burdensome for the Culinary Water Provider to provide water to New Development, or to the Town due to a drought, emergency, natural disaster, or similar conditions, the Town may, in its sole discretion, obtain water from the WCWCD and make said water available to the Culinary Water Provider under such terms and conditions as it deems appropriate. The Town shall have the exclusive authority to enter into agreements with the WCWCD and shall consult with the Culinary Water Provider and WCWCD as needed to obtain adequate water.

**12. AUTHORITY TO PROVIDE WATER TO ANNEXED UNINCORPORATED AREAS.**

In the event an unincorporated area with an existing culinary water provider is annexed into the Town, the Town shall have the authority to make or approve such agreements as necessary with said water provider to ensure that the annexed area continues to have adequate water service and that such service is provided by, or controlled by, the Town Culinary Water.

**13. AUTHORITY TO ENTER UPON PROPERTY FOR WATERWORKS MANAGEMENT.**

All authorized persons connected with the waterworks provided by the Town Water Authority and the Town Culinary Water Provider shall have the right to enter upon any property furnished with water by said provider to examine the apparatus, the amount of water used and the manner of use, and to make the necessary shutoff for vacancy, delinquency, or violation of the ordinances, rules, or regulations enacted or adopted by the Town.

**14. SEVERABILITY CLAUSE.**

If any part of this ordinance is held to be illegal, unconstitutional, or invalid for any reason by a court of competent jurisdiction, or in conflict with Utah state law, the remainder shall not be affected thereby.

**15. EFFECTIVE DATE.**

This ordinance shall become effective immediately upon passage and posting.

Passed and adopted by Town of Leeds Council on this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
Bill Hoster, Mayor

\_\_\_\_\_  
Attest: Aseneth Steed, Town Clerk/Recorder

**Amended para. 11 to proposed water ordinance**

**11. AUTHORITY FO OBTAIN ADDITIONAL WATER.**

Where circumstances arise that make it impractical or unduly burdensome for the Culinary Water Provider to provide water to New Development, or to the Town, whether due to a drought, emergency, natural disaster, or other conditions constraining the availability of water, the Town, in its sole discretion, may obtain water from the WCWCD and make said water available to the Culinary Water provider under such terms and conditions as it deems appropriate. The Town shall have the exclusive authority to enter into agreements with the WCWCD and shall consult with the Culinary Water Provide and WCWCD as needed to obtain adequate water.