



CITY COUNCIL ACTION FORM

DEPARTMENT Public Works	PRESENTED BY David Lady - Public Works Director	DATE November 21, 2023
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ITEM

Ordinance 2023-14 – Second reading on the proposed amendment to Chapter 13 of the Salida Municipal Code, adding a new section 13-2-310, regarding variance procedure for private water supply.

SECOND READING AND PUBLIC HEARING

BACKGROUND

The purpose of adding this new section to Chapter 13 is to establish a variance procedure for property owners who demonstrate that connecting to the municipal water system is not physically possible or creates an undue hardship. This would allow them to continue using a private water supply, such as a well, under specific conditions such as no change in site density.

There are a few properties located just outside of the City limits that are not eligible for annexation and would be required to connect to the City's water system but extending the water main could be cost prohibitive considering that they are single-family residences. This process will allow these properties to apply for a variance. Future development of their property would require connection to public utilities.

FISCAL NOTE N/A

STAFF RECOMMENDATION Staff recommends Council approve Ordinance No. 2023-14.

SUGGESTED MOTION

A council person should make the motion to “approve Ordinance 2023-14 on second reading.”

Attachments:

Ordinance 2023-14

CITY OF SALIDA, COLORADO
ORDINANCE NO. 14
(Series of 2023)

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO AMENDING CHAPTER 13 OF THE SALIDA MUNICIPAL CODE,
ADDING A NEW SECTION 13-2-310, REGARDING VARIANCE FOR PRIVATE
WATER SUPPLY**

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the State of Colorado;

WHEREAS, pursuant to C.R.S. §31-15-401, the City by and through its City Council, possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare;

WHEREAS, under such authority, the City Council previously adopted regulations related to Municipal Utilities, codified as Chapter 13 of the Salida Municipal Code (the “Code”);

WHEREAS, City Public Works and Planning staff have identified limited circumstances where it may not be physically possible to extend a public utility to a particular property and where undue hardship, impracticality or impossibility exist relating to connection to the municipal water system;

WHEREAS, City Public Works and Planning staff have identified situations related to the development of a site that would require connection to the municipal water system;

WHEREAS, City Public Works and Planning staff, as well as the City Attorney, recommend that a process be set forth and clearly and definitively enumerated within the Code to permit a variance when such hardships, impracticalities or impossibilities exist relating to connection to the municipal water system;

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents to amend Chapter 13 of the Code, concerning Municipal Utilities, by the addition of a new Section 13-2-310 as it relates to Variance for Private Water Supply.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY
OF SALIDA, COLORADO AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Chapter 13 of the Salida Municipal Code, concerning Municipal Utilities, is hereby amended by the addition of a new Section 13-2-310, concerning Variance for Private Water Supply, which shall read as follows:

Section 13-2-310. - Variance for Private Water Supply.

- (a) Purpose: The purpose of this section is to establish a variance procedure for property owners who demonstrate that connecting to the municipal water system is not physically possible, extremely impracticable, or creates an undue hardship, allowing them to continue using a private water supply, such as a well, under specific conditions.
- (b) Application for Variance: A property owner seeking a variance under this section shall submit a written application to the City Administrator, which shall include:
 - (1) The property owner's name, address, and telephone number;
 - (2) The address and legal description of the property for which the variance is sought;
 - (3) A detailed explanation of the reasons for seeking the variance, including any undue hardship, impracticality or impossibility associated with connecting to the municipal water system;
 - (4) Documentation demonstrating that the private water supply is in compliance with all applicable health and safety regulations; and
 - (5) Any additional information deemed necessary by the City Administrator to evaluate the variance request.
 - (6) Advanced engineering design for septic systems or wells may be required if environmental concerns are present.
- (c) Undue Hardship: Examples of a subject property having undue hardship, impracticality or impossibility associated with connecting to the municipal water system shall include: no access to a public easement or right-of-way; crossing a body of water in order to connect to the system; crossing rail-road tracks in order to connect to the system; annexation of a property that is not changing in use or unit density and does not have public utilities adjacent; or comparable situations.
- (d) Approval of Variance: The City Administrator may approve a variance under this section if the following criteria are met:
 - (1) The property owner has demonstrated that connecting to the municipal water system is not physically possible, extremely impracticable or creates undue hardship;
 - (2) The property owner has demonstrated that the private water supply is in compliance with all applicable health and safety regulations; and
 - (3) The granting of the variance will not adversely impact the public health, safety, or welfare.
- (e) Conditions of Approval: The City Administrator shall impose conditions on the approval of a variance to ensure that the private water supply remains in compliance with applicable health and safety regulations and to protect the public health, safety, and welfare. Such conditions shall be recorded onto the property and shall include, but not be limited by, the following conditions: the property shall be required to pay appropriate system development fees and connect to the municipal water system in the event of any of the following triggers: a change

of use; a change in unit density; a development or land use application; a public water main being installed on the property's frontage; or an installation of public utilities to the immediately adjacent property(ies).

- (f) Revocation of Variance: The City Administrator may revoke a variance granted under this section if the property owner fails to comply with the conditions of approval or if the private water supply no longer meets applicable health and safety regulations.
- (g) Use of Private Water Supply: The property owner shall use the private water supply approved under this variance solely for the residence or property for which the variance was granted. Use of the private water supply for any other purposes or properties is strictly prohibited.

Section 3. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this 7th day of November, 2023, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this ____ day of _____, 2023, and set for second reading and public hearing on the 21st day of November, 2023.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this 21st day of November, 2023.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk