

ASSURED WATER SUPPLY IMPLEMENTATION GUIDANCE: JANUARY 2024

MODERN ZONING CODE  
**USER GUIDE**

**CITY** *of* **BOISE**

Boise is committed to appropriate growth that does not exceed the supply of available water. The purpose of this User Guide is to provide additional information to support the implementation of Assured Water Supply requirements (11-04-010.) in the Modern Zoning Ordinance.

Assured Water Supply  
Implementation Guide  
for Boise Zoning Code (11-04-010)  
City of Boise, ID

# Table of Contents

## Contents

ASSURED WATER SUPPLY IMPLEMENTATION GUIDANCE: JANUARY 2024 ..... 1

Table of Contents ..... 1

Assured Water Supply Guidance ..... 1

    Goals and Purpose ..... 1

    Glossary of Terms ..... 2

    Elements of Demonstrating Assured Water Supply ..... 3

    Applicability ..... 3

    Assured Water Supply Application Options ..... 4

        Assured Water Supply Application A – Designated Water Providers ..... 4

        Assured Water Supply Application B – Applicants Seeking AWS for Development within a DWP’s Service Area ..... 4

        Assured Water Supply Application C – Onsite Water System or Well(s) ..... 5

    Exemptions ..... 5

    Assistance for Compliance ..... 6

    Representations ..... 6

    Certification and Recertification ..... 7

    Application Review Process ..... 9



## Assured Water Supply Guidance

Boise City is committed to appropriate growth that does not exceed the available water supply. The purpose of this section of the Boise Zoning Code (Code) is to confirm, before approval, the long-term adequacy of water supplies to serve the development or redevelopment of land.

This Assured Water Supply (AWS) Implementation Guide (Guide) for the City of Boise, ID, (City) outlines key steps and considerations for assessing water demands and supplies, identifying potential water sources, and complying with legal and regulatory provisions of the Code. By integrating water supply into land use planning, the city will be provided the tools to proactively ensure an adequate water supply in quantity, dependability, and quality for Boise's existing and future users.

### Goals and Purpose

This Guide is intended to clarify the AWS technical requirements as provided in Boise City Code 11-04-010.

This Guide was developed to assist applicants in completing an AWS application in Part 2 of this Guide. The AWS application will identify current and potential future demands needed to supply water throughout the respective service areas and to proposed development areas and/or redevelopment areas. The AWS application examines water supply planning methods of a service area, proposed development, or redevelopment, and takes into consideration the impact of growth and development by identifying previously issued determinations of AWS, Designated Water Provider (DWP) service areas, and groundwater wells, as well as underground and surface water storage facilities.

The City recognizes that water supply is regulated by several state agencies and developed the AWS provisions with feedback from relevant state agencies and stakeholders, therefore this does not duplicate or conflict with such jurisdiction. Pursuant to the Local Land Use Planning Act (LLUPA), however, the city will consider the impact of development on water supplies and water quality. AWS provisions protect and benefit residents, the development community, DWPs, and other regulatory agencies by ensuring that land development and growth align with long-term water supply needs. These provisions are intended to supplement the roles and responsibilities of the State of Idaho's water supply regulators solely for planning and zoning purposes to confirm that water resources will be available to serve continued growth in Boise.

## Glossary of Terms

The following terms are utilized and referenced throughout the Guide and AWS applications.

Term	Definition/Reference
<b>Applicant</b>	Individuals, owners, or developers, as referenced in Application B and Application C.
<b>Aquifer Recharge District (ARD)</b>	Defined by Idaho Code § 42-4201 et seq.
<b>Assured Water Supply (AWS)</b>	A water supply that meets the criteria as set forth in Boise City Code 11-04-010.5.
<b>Boise City Code (Code)</b>	Codification of ordinances adopted by the City Council to govern the City of Boise, and including the Boise Zoning Code, Title 11 (Development Code), as adopted by City Council, Ordinance 27-23, on July 18, 2023, and codified in the Code.
<b>Certificated Area</b>	An area defined by the Idaho Public Utilities Commission within which water service is provided by a Designated Water Provider.
<b>Critical Groundwater Area (CGA)<sup>1</sup></b>	Defined by Idaho Code § 42-233a. CGA is synonymous with Critical Ground Water Area (CGWA) as utilized by the State of Idaho.
<b>Designated Water Provider (DWP)</b>	Every certified provider of water for drinking or general domestic uses as a public utility, with a Certificated Area within the City limits or the City Area of Impact, and that intends to serve any proposed redevelopment or new development subject to the AWS requirements.
<b>Groundwater Management Area (GMA)<sup>1</sup></b>	Defined by Idaho Code § 42-233b. GMA is synonymous with Ground Water Management Area (GWMA) as utilized by the State of Idaho.
<b>Groundwater Management District (GMD)<sup>1</sup></b>	Defined by Idaho Code § 42-5101 et seq. GMD is synonymous with Ground Water Management District (GWMD) as utilized by the State of Idaho.
<b>Implementation Guide (Guide)</b>	This document, defined herein.
<b>Local Land Use Planning Act (LLUPA)</b>	Idaho Code Title 67, Chapter 65.

Term	Definition/Reference
<b>Planning and Development Services (PDS)</b>	The Department of Planning and Development Services for Boise City as established by Code 1-10G-1 et seq.
<b>Point of Diversion (POD)</b>	The location where water is diverted from a natural source.
<b>Public Water System (PWS)</b>	Defined by Idaho Administrative Code 58.01.08.110. May also be referred to as a public drinking water system/water system/system.
<b>Service Area</b>	An area in which a DWP provides water service and is seeking AWS Certification. For the purposes of this Guide and Code 11-04-010, all Certificated Areas within the City Limits and the City Area of Impact must be included in the Service Area. However, portions of the Certificated Area outside of City limits and the City Area of Impact will only be included in a Service Area as determined by the discretion of the DWP or other City guidance as may be applicable.

<sup>1</sup> Boise recognizes that 'groundwater' is most commonly written as 'Ground Water' in Idaho statute and rule. This document utilizes 'groundwater' throughout, but the two phrases/words are considered synonymous.

## Elements of Demonstrating Assured Water Supply

The basic criteria for demonstrating an AWS include:

1. The water supply must be physically and legally available.
2. The proposed supply must be continuously available for 50 years.
3. The water must be of sufficient quality and adequately delivered for the proposed use(s).
4. The proposed water use must comply with Groundwater Management District (GMD), Critical Groundwater Area (CGA), Groundwater Management Area (GMA), and Aquifer Recharge District (ARD) standards.
5. The AWS analysis must adhere to City standards and guidelines, including this Guide.

For specific guidance on meeting the elements of an AWS, refer to Part II containing the AWS applications.

## Applicability

Unless otherwise exempt pursuant to Code Section 11-04-010.3, beginning July 1, 2024, these requirements apply to:

1. All proposed development on previously undeveloped lands applicable with the following sections of the Code:
  - a. 11-02-02 Residential Zoning Districts.
  - b. 11-02-03 Mixed-Use Neighborhood.
  - c. 11-02-04 Industrial Zoning Districts.
  - d. 11-02-05 Open Land Zoning District.
2. All proposed redevelopment:
  - a. containing five (5) or more dwelling units; or
  - b. located in a GMD defined by Idaho Statute 42-5224; CGA or GMA defined by Idaho Statute 42-233A and 233B, respectively; or an ARD defined by Idaho Statute 42-4202.

### Assured Water Supply Application Options

The City has developed three (3) different applications to demonstrate an AWS.

1. AWS Application A was created for DWPs to obtain an AWS Certification or AWS Recertification for their Service Area(s).
2. AWS Application B was created for developers, owners, and individuals (Applicants) seeking an AWS Certification via a “will serve” letter from a DWP who has already obtained an AWS Certification via Application A.
3. AWS Application C was created for developers, owners, and individuals (Applicants) seeking an AWS Certification for a private onsite water system (including community or individual wells). This application form also applies to developers, owners, and individuals seeking an exemption from the provisions of the AWS ordinance.

DWPs or Applicants should only complete the application form that is applicable to them. More information regarding each respective application is included below.

#### Assured Water Supply Application A – Designated Water Providers

In areas served or planned to be served by publicly or privately owned or operated water utilities, the DWP shall apply for a master AWS Certification addressing the full extent of the DWPs Certificated Area within the City of Boise boundary and the Boise City Area of Impact, at a minimum (the Service Area). The Service Area may include additional lands as determined by the DWP or City guidance as may be applicable. The analysis shall be prepared in accordance with the Code 11-04-010.5 and this Guide.

#### Assured Water Supply Application B – Applicants Seeking AWS for Development within a DWP's Service Area

For applicants seeking an AWS Certification for a proposed development or redevelopment within a DWP's Service Area, if choosing to utilize water service from the DWP, the applicant must coordinate with the DWP regarding the water service and obtain a “will serve” letter from the DWP. The obtained “will serve” letter must be

included as an attachment to AWS Application B. A commitment for service in the “will serve” letter will rely upon an existing DWP AWS Certification and commit a portion of that AWS to the corresponding application. AWS Application B must be submitted to PDS with or prior to any submittal of an application for administrative approval or any public hearing before Planning and Zoning Commission or City Council, as it may be relevant to the application type.

### Assured Water Supply Application C – Onsite Water System or Well(s)

For development and redevelopment projects proposing to utilize an onsite water system, community well, or individual well, the applicant shall submit AWS Application C to PDS. The application shall be submitted prior to any administrative approval or prior to any public hearing before the Planning and Zoning Commission or City Council, as it may be relevant to the application type. Because review and approval of the application by PDS is required prior to the issuance of any development permits by PDS, the applicant should coordinate early with PDS on the timing for submittal to avoid delay in the consideration of the application.

1. For water supply to an individual single-family residence, the requirement to demonstrate an AWS will apply if the water supply is for a new development on previously undeveloped land. If the water supply is for redevelopment of an individual single-family residence, the requirement to demonstrate an AWS will only apply if the proposed redevelopment site is within a GMD, CGA, GMA, or ARD.
2. While this guidance should answer questions about the applicability of these requirements and how to comply, applications may be reviewed on a case-by-case basis as different application types or development scenarios arise. For example, if an applicant for a redevelopment project of four (4) individual lots with single family residences proposes a new planned unit development on those four (4) lots for the creation of eight (8) dwelling units, the project is not exempt, and an AWS analysis will be required.

### Exemptions

The Planning Director may exempt a project from the requirements of Code 11-04-010 if the Applicant has submitted information demonstrating that, upon completion of the project and issuance of all required use and occupancy permits, the development or redevelopment will not increase the overall total consumptive use of water at the development site, when compared to the overall total consumptive use of water at the property at the time of application.

Applicants requesting an exemption shall complete as much of the application as possible. The Planning Director may approve exemptions under the following specific circumstances.

1. The Applicant is not a DWP.



2. If the development or redevelopment uses the same amount of water or less than was previously used on the site. See AWS Application C for data needed from Applicant to review and consider this type of exemption request.
3. Individual lot/building permit on lands previously developed or does not meet the applicability standards (See Code 11-04-010.2).
4. Domestic use exemption – For developers/owners seeking use of private wells for domestic uses authorized under Idaho Code § 42-111. See AWS Application C for data needed from Applicant to review and consider this type of exemption request.

### Assistance for Compliance

In addition to this Guide, the City will make resources and assistance available to ensure that demonstrating an AWS can be integrated into the application process by PDS without extending the standard time frame for review and approval. To ensure the efficient review and approval of applications as intended, DWPs will be engaged early in the implementation of these provisions and prior to their applicability to work through the requirements and certification process. For applications intended to be submitted after the effective date (July 1, 2024), individual applicants are encouraged to seek additional guidance prior to, or early in the application process.

### Representations

The city requires that the representations made by the DWP and/or the Applicant, through any of the AWS application forms are reasonable to rely on. Accordingly, all AWS applications letters must contain statements that:

**1. The information is true and complete to the best of the signor's knowledge.**

This means, without limitation, that the Applicant or the DWP has conducted its own analysis or reasonably relied upon experts to conduct the analysis, knows the contents of the analysis, and is not aware of any material misrepresentation, misstatement, omission, or other error in the information provided.

**2. The representations in the written statement are binding upon the signing party and its successor(s) in interest.**

As development and redevelopment are, in a sense, permanent, the representations must be binding upon the signing party and successor in interest. When any material change in circumstance occurs and is subject to AWS Recertification, the signing party or successor in interest will be held to correct and update the written representations.

**3. The individual executing the application, as applicable, has any and all required authorizations to submit the materials.**

A developer/owner may authorize an expert to submit the AWS Application on behalf of the developer/owner. If an application is completed and signed by an expert, the Applicant must include a statement of that authorization. This is similar to an affidavit of legal interest and a form can be provided by the City.

## Certification and Recertification

AWS Certification by PDS is for purposes of an initial application. However, the analysis utilized in the application relies on several factors that may be subject to change, whether it be additional development in the area, climate change, catastrophic events, priority administration of water rights by the state, or any other number of circumstances. The Code provisions on AWS are intended to require recertification only under a limited number of circumstances where the City finds the likelihood of impact to the water supply will be substantially affected. The AWS Recertification circumstances are:

### **1. More than 10 years have passed since the approval of an AWS.**

- a. A DWP must recertify its master AWS Certification every 10 years.
- b. An Applicant shall only be required to apply for recertification if the approved development or redevelopment has not been completed within 10 years from initial AWS Certification. Projects completed within 10 years of AWS approval are not subject to AWS Recertification.

### **2. Change in scope.**

- a. For a DWP, AWS Recertification will be required if the DWP applies to enlarge its Certificated Area.
- b. For a DWP, AWS Recertification may be required if the committed water demands represented by "will serve" letter(s) for proposed development(s) are substantially different than those previously assumed in the associated master AWS Certification. The City reserves the right to evaluate the cumulative effect of "will serve" letters from a DWP in its evaluation of AWS Recertification requirements.
- c. For an Applicant utilizing a private onsite water system, AWS Recertification may be required if, prior to project completion, the water demands of a proposed development are substantially different than those previously assumed in the AWS Certification.

### **3. Drought.**

- a. AWS Recertification is required for all DWPs, and only Applicants whose projects have not been fully completed, if the United States Drought Monitor determines the City has experienced extreme or exceptional drought for a

majority of months within each calendar year for a period of three (3) consecutive years.

## Application Review Process

In processing the application, the City will first determine whether the application is administratively complete (Administrative Completeness Review) and then whether the application meets the substantive criteria established by Code (Substantive Review).

- Administrative Completeness Review: City staff will conduct an Administrative Completeness Review of the application to determine if the application was appropriately completed. If more information is required, or if an application was inappropriately completed, the DWP or Applicant must provide a revised application submittal that meets all the requirements within the application.
- Substantive Review: Following the Administrative Completeness Review, whereas the application is deemed complete by the city, staff will then conduct a Substantive Review of the application in detail to determine whether or not the DWP or Applicant has demonstrated proof of an AWS. A basic review consideration will be comparing the available supply volume to the projected water demand volume. In addition, the review will consider responses to address missing information and future challenges.
- Final Approval: Upon completion and certification of an AWS Application, City staff will issue an AWS Certification that will be included with the development application submitted to PDS.

