

ORDINANCE NO. 145, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
TO EXTEND AND CLARIFY THE WATER ANNUAL ALLOTMENT
MANAGEMENT PROGRAM

WHEREAS, the City owns and operates Fort Collins Utilities, including a water utility that provides treated water service to customers pursuant to the City Code and other applicable law, rules, and regulations; and

WHEREAS, water service permits are issued to customers of the water utility for either residential service or nonresidential service, which nonresidential service includes water service for commercial, irrigation, and other purposes, as indicated in City Code Section 26-149(a); and

WHEREAS, water service permits applied for since March 1, 1984 by nonresidential users are to have received an annual allotment of water, as set forth in City Code Section 26-149(e); and

WHEREAS, as set forth in City Code Section 26-149(f), when a nonresidential user uses more water than its annual allotment, as determined by monthly billing records in a given calendar year, an excess water use surcharge in the amount prescribed in City Code Section 26-129 will be assessed on the volume of water used in excess of the annual allotment; and

WHEREAS, funds acquired from the excess water use surcharge are used to acquire and develop water supplies, an underlying policy goal of which is to manage and equalize the supplies and demands for treated water from the water utility; and

WHEREAS, certain customers of the water utility for nonresidential service for irrigation purposes with annual allotments have experienced challenges with the excess water use surcharge, in particular, being customers who have and are anticipated to exceed their annual allotments for current uses and landscaping while employing practices to efficiently use water for irrigation purposes; and

WHEREAS, some of these customers may be able to reduce the amount of water they use for irrigation purposes, including by modifying landscapes, but require adequate time to plan and budget for such projects for their annual planning and budgetary processes, and would benefit from being able to fund such projects with money that would otherwise be spent on paying excess water use surcharges; and

WHEREAS, water conservation and efficiency are tools that are used by the water utility to manage and reduce the demand for treated water, which is beneficial to the water utility and its ratepayers by, among other reasons, helping to ensure that the demand for treated water does not exceed supplies, which could result in more shortages and other adverse impacts; and

WHEREAS, the City adopted Ordinance No. 50, 2019, to enact a program related to annual water allotments and excess water use surcharges, known as the Allotment Management Program (“AMP”), which is set forth in City Code Section 26-129(h); and

WHEREAS, AMP has provided for a temporary waiver of the excess water use surcharge for certain nonresidential customers and has been beneficial to the water utility and its ratepayers

by managing and reducing the long-term demand for treated water by such customers through allowing such customers to spend the money that would have been spent on the excess water use surcharge on other means to reduce their demand for treated water out into the indefinite future, thus achieving the same underlying policy goal of the excess water use surcharge of balancing the supplies and demands for treated water from the water utility; and

WHEREAS, City Code Section 26-129(h) has required that applications to participate in AMP be filed on or before December 31, 2022; and

WHEREAS, the City desires to extend AMP to allow for applications to be filed through December 31, 2024, in part, because current analyses indicate that AMP's long-term benefits to the water utility and its ratepayers from extending the deadline for two years will outweigh any short-term reductions in foregone excess water use surcharge revenues or increased WSR funds; and

WHEREAS, staff of the water utility and the City Manager have recommended to the City Council that the City Code be amended as described below in order to address the issues described above.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section . That Section 26-129(h) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-129. - Schedule D, miscellaneous fees and charges.

The following fees and service charges shall be paid by water users, whether inside or outside the City limits:

...

(h) Notwithstanding the provisions of this Section or §26-149, the Utilities Executive Director may waive payment of all or portions of the excess water use surcharge of Subsection (c)(2) pursuant to this Subsection (h).

(1) A customer of the water utility with nonresidential water service seeking such a waiver shall, on or before December 31, 2024, complete and file with the Utilities Executive Director an application accompanied by any required filing fee as determined by the Utilities Executive Director. The Utilities Executive Director shall prepare a form of such application identifying for the applicant all of the necessary information for the Utilities Executive Director to evaluate the requested waiver.

(2) The Utilities Executive Director may, following any appropriate investigations including requests for additional information from the applicant, waive payment of the excess water

use surcharge by the applicant if the Utilities Executive Director finds that the following conditions are met:

- a. The application was timely filed and complete;
- b. The applicant has not previously executed a written agreement consistent with this Subsection (h) regarding the same property;
- c. The applicant is expected to exceed its annual allotment for its current uses and landscaping on a participating property when employing practices to efficiently use water for irrigation purposes without waste;
- d. The applicant has an adequate and detailed plan to reduce the use of water for irrigation purposes for the indefinite future as determined by the Utilities Executive Director, though the reduction need not reduce the use of water below the annual allotment;
- e. The applicant and the Utilities Executive Director have executed a written agreement consistent with this Subsection (h) setting forth such plan and other related matters, with such agreement being approved as to form by the City Attorney.

...

Introduced, considered favorably on first reading and ordered published this 6th day of December, A.D. 2022, and to be presented for final passage on the 20th day of December, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 20th day of December, A.D. 2022.

Mayor

ATTEST:

City Clerk