

AGENDA ITEM SUMMARY

City Council



STAFF

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SUBJECT

Second Reading of Ordinance No. 145, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Extend and Clarify the Water Annual Allotment Management Program.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on December 6, 2022, amends Chapter 26 of the City Code to extend the Allotment Management Program to allow for applications to be filed through December 31, 2024 for the benefit of eligible nonresidential Utilities water customers. The Allotment Management Program serves eligible nonresidential Utilities water customers by waiving excess water use surcharges during the implementation of a landscape project intended to reduce the long-term water use on a property. The ordinance also includes a few language revisions to clarify certain aspects of the program.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Beginning in 1984, nonresidential water taps have been assigned allotments, the annual volume of water a tap can use. The allotment volume is based on the Water Supply Requirement satisfied for a tap. During the year, if water consumption exceeds the allotment volume, an excess water use surcharge is applied for the remainder of the billing year. The excess water use surcharge rate is tied to the Water Supply Requirement rate. The current excess water use surcharge rate is billed at \$16.67 per 1,000 gallons over the allotment, a rate that has increased steadily for the past five years, commensurate with increases in the Water Supply Requirement. About 1,800 nonresidential water taps have assigned allotments which is approximately two-thirds of all nonresidential water taps.

It was during the increase of excess water use surcharge rates in 2018 when it was discovered that some properties have allotments that are significantly undersized for the landscape they cover. In those cases, even the most efficient landscape water management results in excess water use surcharges because the water needs of the landscape type and size exceed the allotment. The reason some allotments are undersized is because, in the past, the Water Supply Requirement calculation for new development did not account for a property's landscape water need. After the property has been developed and sold, the developer no longer has financial obligations to buy more water, putting new property owners and HOAs in a financially challenging position. Ordinance No. 119, 2021 fixed this gap

in City Code and now requires the landscape water need be factored into the Water Supply Requirement calculation at new development (and redevelopment, when applicable). Any new commercial development after January 1, 2022 should be assigned an allotment that better matches the landscape's water needs and estimated water use on the property. This addresses new development into the future, but it remains that an estimated 40-50 accounts that went through the development process prior to 2022 are in a situation with an undersized allotment for their landscape.

The Allotment Management Program ("AMP") serves certain nonresidential customers by waiving some or all excess water use surcharges accrued while implementing a landscape project. The accounts eligible for a surcharge waiver through AMP must be in the situation where the minimum volume of water needed for a landscape exceeds the allotment. To qualify for a waiver, a proposed landscape project must demonstrate long-term water savings that brings the property's water needs closer to the allotment.

AMP is good for conservation and landscapes. Customers can always increase an allotment by purchasing more Water Supply Requirement. While this approach reduces the likelihood of excess water use in the future, it does not save water. The AMP waiver allows customers to utilize the money that would otherwise be spent on the surcharge to implement changes that reduce water need on a property long-term. AMP is also an incentive to customers to skip short-term fixes, which can have negative impacts on the landscape, like shutting off irrigation zones for the summer, and instead pursue long-term solutions.

AMP was first enacted through Ordinance No. 050, 2019. AMP was initially enacted to only allow the Utilities Executive Director to waive excess surcharges where an application was filed before December 31, 2022. Since 2020, AMP has benefitted 28 accounts across 20 properties. The types of properties that have taken advantage of AMP include HOAs, businesses, churches, multi-family and a large shopping center. Just over \$207,000 of excess water use surcharges have been waived between 2020 and October 2022. This amounts to 6% of the total surcharges collected over the last three years. Ten million gallons of actual annual water savings can be attributed to these AMP projects alone. These annual savings are likely to continue for many years and not only benefit the Utilities account owner, but the Utility itself by minimizing water demands, which translates to less water shortage risk.

Staff proposes to extend the current AMP application to December 31, 2024. An extension of the application period would support any remaining AMP-eligible customers with a surcharge waiver while they implement a water saving project. A decreasing program participation trend suggests the volume of applications is unlikely to exceed four participants in 2023 and 2024. The number is small but impactful. Staff has identified at least two properties built in 2021 that are paying surcharges because their allotments were undersized from day one. Both properties are new HOAs that have recently taken over utility accounts following development. These new properties just finished their first or second irrigation seasons and have only recently been subject to an excess water use surcharge. Extending the AMP application by two years allows these properties time to plan for a project and secure funding.

If approved, staff would take the program offline in first quarter of 2023 to update the program rules to include limiting participation to one time, and a threshold of reasonable water savings for approval, changes that are also reflected in the ordinance. Staff expects to open AMP applications to customers, with these new changes, in second quarter 2023.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Water Commission unanimously recommends Council adopt an extension of the Allotment Management Program by one year.

At their October 20, 2022 meeting, Water Commission was presented with a staff recommendation to extend the Allotment Management Program by three years. Water Commission expressed concern that a three-year extension would be too lengthy and enables those who had made short-sighted decisions

at the time of development but recognized that in some cases, those decisions were then handed down to current property owners, such as HOAs. Water Commission acknowledges the importance of providing property owners an opportunity to fix this issue. Taking the Water Commission recommendation into consideration as well as conversations with heavily impacted customers, staff landed on proposing a two-year extension which provides time to those customers who have recently entered an AMP-eligible situation to plan and budget.

CITY FINANCIAL IMPACTS

The Allotment Management Program partially or fully waives excess water use surcharges accrued during an agreed-upon period of time. In 2019, when this program was initially approved, it was estimated that the revenue implication of waived surcharges would be \$370,000. Since 2020, just over \$207,000 have been waived. This amounts to 6% of the total surcharges collected over the last three years. However, this is more than offset by reduced long-term demand for water. A decreasing program participation trend suggests the volume of applications is unlikely to exceed four participants in 2023 and 2024.

To mitigate the potential short-term financial impact, this program implements:

- A decreasing tiered exemption for multi-year projects up to three years.
- A mechanism to back bill accounts should projects not follow the signed contract agreement. For example, if an approved project was not completed or proposed water savings was not achieved.

Should the AMP application deadline be extended, staff will review AMP in Q3 of 2024 to evaluate the impact of AMP and prepare for the end of the program.

PUBLIC OUTREACH

No public outreach was done for the AMP extension.

ATTACHMENTS

1. Ordinance for Consideration