



AGENDA ITEM SUMMARY

City Council

STAFF

Jen Dial, Water Resources Manager
Mariel Miller, Water Conservation Manager
Jason Graham, Director of Water Utilities
Eric Potyondy, Legal

SUBJECT

Second Reading of Ordinance No. 116, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Make Various Changes to the Water Supply Requirement for Nonresidential Water Service.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on October 25, 2022, adopts changes to Fort Collins Utilities (Utilities) Water Supply Requirement (WSR) in Chapter 26 of City Code. Changes to the WSR went into effect January 1, 2022, through Ordinance No. 119, 2021. However, after administering the WSR under that ordinance for several months, staff realized a need for further revision. The Ordinance broadened when Utilities nonresidential water customers doing redevelopment must meet the WSR, such that these customers must meet WSRs for almost any redevelopment. The Ordinance also results in the assignment of an annual allotment and the potential for excess water use surcharges. These changes have resulted in significant staff time for previously routine matters and impacts to customers that are perceived as unfair. The proposed ordinance would return to the previous, historical requirement, where customers must only meet the WSR for new development and redevelopment that is replacing an existing meter or service with a larger size.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Fort Collins Utilities (Utilities) water service area covers the central portion of Fort Collins. Utilities supplies water to approximately 75% of residents and business within the Fort Collins city limits. Water service in the surrounding areas is provided by other water providers, including water districts like the East Larimer County Water District (ELCO) and Fort Collins-Loveland Water District (FCLWD). Each water service provider has their own drivers (sources of supply, water rights, development patterns) that determine their WSR calculations and the policies, options, and costs for meeting their WSR. For this proposed revision, all proposed concepts only apply to the Utilities water service area.

WSR are part of the water-related development impact fees met by developers to account for the additional demand created from new development. WSR is a requirement for water service from Utilities. A WSR accounts for the additional water demand, defined in gallons of water, brought into the Utilities water service

area by a new development or redevelopment. The developer satisfies a WSR by paying cash to Utilities. This provides the revenue to develop reliable water resources for the development, including water rights and associated infrastructure. WSRs are in line with the approach that development pays for itself. All non-residential taps (e.g., commercial businesses and irrigation taps) installed after March 1984 have an annual allotment (volume of water in gallons) that is based upon the WSR that was satisfied at the time of development or redevelopment. Only about 1,000 or 33% of non-residential customers have allotments. Customers can pay additional cash-in-lieu to increase their allotments at any time to avoid excess water use surcharges. Below is the history on how WSR has evolved:

1960: Initiation of WSR (previously called “raw water requirements”). Two-acre-foot equivalent of water rights is required for every one acre developed. WSRs can be met via dedication of water rights or cash-in-lieu.

1960 - 1984: Minor, intermittent updates reflecting changing use patterns and costs to develop water supplies and associated infrastructure.

1984: In response to more commercial development, WSR calculations are now based on tap size. First year that new non-residential developments are assigned allotments based on their WSR.

1984 - 2018: Minor updates to the fee (paid with certain water rights or cash-in-lieu of water rights), excess water use surcharge, and WSRs to reflect changing use patterns and costs to develop water supplies and associated infrastructure.

2018: Significant updates to WSR calculations, fee, and excess water use surcharge in response to rising cost of water resources. Included a 166% increase to the cash-in-lieu and surcharge. Customers with allotments experience an increase in surcharges from an average of \$1,500 to \$4,000 per year. Analysis reveals that some exceedances are because the original WSR and the resulting allotment being too low for the property’s water use, even if the customer is efficient. This flagged the need to improve the precision and equity of WSRs and allotments.

2019: Council approved the creation of the Allotment Management Program (Ordinance No. 50, 2019). This program provides existing customers a temporary waiver from surcharges while they implement a long-term water reduction project that will mitigate all or a portion of the surcharges permanently. Staff launches effort to update the WSR calculations for new developments and re-developments.

2021-22: Council approved changing the WSR to be based on Business category, not tap size (Ordinance No. 119, 2021) (see Exhibit 1 to AIS from September 21, 2021 meeting). This methodology followed to same approach as several other Front Range water users. The Agenda Item Summary for Ordinance No. 119, 2021, provides background on WSRs and the ordinance itself: [Water Supply Requirements Agenda Item Summary, September 21, 2021](#)

The change was driven by the fact that basing WSR on tap size was deemed problematic and inaccurate since tap size is determined by peak daily demand, which does not always correlate to annual water demand. Additionally, within a tap size, the current WSR calculation methodology is based on the average annual demand for all customers who currently have that tap size. Within any given tap size, there are many different business types, including mixed-use taps and irrigation taps that serve a variety of different sizes and types of landscapes that are all treated the same. Since it is an average, some development’s actual water use is above the WSR and some is below. This creates equity issues for developers and customers alike; it means some developments subsidize other developments. And, in situations where the WSRs are too low relative to the property’s actual water use, the allotments are also too small, placing the burden on the customers, who may have to pay substantial surcharges each year.

Because of this staff recommended and Council approved Ordinance No. 119, 2021 to change the WSR methodology to calculate WSR based on business category instead of tap size for all new development and redevelopment (including minor amendments and tenant finishes). As staff has been implementing

this code since January 1, 2022, a few issues have arisen that require the need to revise the code to minimize the burden to the city's customers and staff. These include:

1. Customers that are applying for a permit that aren't planning to increase their water use have a hard time understanding why they need to pay for a WSR, especially in situations where there is a large financial impact. It is estimated that as many as twenty-five customers could see a financial impact of over \$60,000.
2. Significant staff time has been needed to perform these more complicated calculations when customers do not fall into a clear business category, as well as provide outreach and education to customers.
3. Because WSR evaluations are taking more time, the timeline to issue a permit has been frustrating and unreasonable for many of our customers for completing projects.

Proposed Revisions

The proposed Ordinance would return to the previous, historical requirement, where customers must only meet the WSR for new development and redevelopment that is replacing an existing meter or service with a larger size.

CITY FINANCIAL IMPACTS

This is unknown and dependent on growth. Revenue from WSR will continue to cover the increased demand related to increased water service.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Staff felt this was urgent enough to not take to the Water Commission but will update them on the final decision from Council.

PUBLIC OUTREACH

Staff intends to provide improved messaging through the City's WSR website and increased outreach earlier in the application process to prepare customers for an allotment and potential WSR.

ATTACHMENTS

1. Ordinance for Consideration
2. Presentation